

## The continuing euthanasia debate in New Zealand: What are the views of palliative care nurses?



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This workshop aims to give palliative nurses a chance to air their views on euthanasia and the possible effects on their practices of such legislation with their colleagues.

It involves:

- a) an overview of the more recent developments relating to euthanasia legislation,
- b) an outline of the perceived ethical issues for palliative care nurses, and
- c) an open forum where various viewpoints will be considered in an open and supportive environment.

The workshop/conference will also include an opportunity for participants to anonymously critique a proposed survey of palliative nurses' viewpoints on end-of-life and euthanasia related issues.

## Defining the end of life stage

For the purposes of this guidance, patients are 'approaching the end of life' when they are likely to die within the next 12 months.

This includes patients whose death is imminent (expected within a few hours or days) and those with:

- (a) advanced, progressive, incurable conditions
- (b) general frailty and co-existing conditions that mean they are expected to die within 12 months
- (c) existing conditions if they are at risk of dying from a sudden acute crisis in their condition
- (d) life-threatening acute conditions caused by sudden catastrophic events

(General Medical Council, 2010, p. 8).

## Defining euthanasia

'Euthanasia is an act where a third party, usually implied to be a physician, terminates the life of a person—either passively or actively'

(Center for Bioethics University of Minnesota, 2005, p.39).

## Recent developments

- A considerable number of developments have occurred within New Zealand since we offered some preliminary ideas at the PCNNZ Conference in 2013 about the growing need for ethical responsiveness towards euthanasia amongst nurses, and especially palliative care nurses.
- In the Election year (2014), the planned euthanasia legislation bill was withdrawn from the ballot, but interest in this controversial topic amongst the public and various campaigners did not unduly diminished.
- In 2015, at least two major developments completely reshaped and reinvigorated the euthanasia debate...

## Lecretia Seales v Attorney General

- There is little doubt that interest in euthanasia was reignited this year by the recent High Court case involving Lecretia Seales v Attorney General.
- This case attracted a huge amount of publicity and reopened and reinvigorated public and health care professional debates across the nation.
- The result of these recent trends is that it is now even more likely that yet another 'Euthanasia Bill' will be submitted at Parliament in the near future.
- Yet, as was the situation two years ago, the views of palliative care nurses on euthanasia remain generally unknown, and opportunities to express such views, at least amongst their colleagues, are very limited.

## The parliamentary response

“A parliamentary inquiry into euthanasia will canvas public opinion and look at international cases, before making a decision on whether a law change was needed in New Zealand. Parliament's Health Select Committee has released its terms of reference for an investigation into ending a person's life in New Zealand.”



## Petition of Hon Maryan Street and 8,974 others

Public submissions are now being invited on the Petition of Hon Maryan Street, The Voluntary Euthanasia Society, and 8,974 others

**The closing date for submissions is:  
Monday, 1 February 2016**

## What exactly is being investigated by the Inquiry?

The petition:

“That the House of Representatives 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.”

The petition asks for a change to existing law. Therefore the committee will undertake an investigation into ending one's life in New Zealand. In order to fully understand public attitudes the committee will consider all the various aspects of the issue, including the social, legal, medical, cultural, financial, *ethical*, and philosophical implications.

## The ‘Euthanasia Inquiry’

...will cover:

- \* 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 attitudes of New Zealanders towards the ending of one's life, and the current legal situation.
- \* International experiences of the issue.

(Jones, N. (2015, Aug.). Voluntary euthanasia inquiry details released. Downloaded from: <http://www.odt.co.nz/news/national/353828/voluntary-euthanasia-inquiry-details-released>

## Furthermore...

- A private members bill has been “lodged in the ballot”...
- It is framed as another “End of life Choice” Bill.
- It features “...a comprehensive set of provisions to ensure this is a free choice made without coercion, and outlines a stringent series of steps to ensure the person is mentally capable of understanding the nature and consequences of assisted dying” (Seymour quoted by Kirk, S. [2015]. <http://www.stuff.co.nz/national/politics/72994662/voluntary-euthanasia-bill-launched-by-david-seymour>).

## The recent medical survey on euthanasia...

- 650 GPs responded to a University of Auckland survey about the last patient they had been in contact with who died.
- Of those, 547 had been in a position to make a decision about how to handle their patient's looming death.
- Two-thirds of them (359) did make a decision, with 16 stating that they had prescribed, supplied or directly administered a drug explicitly for the purposes of hastening their patient's death.
- In those cases, nurses were usually the ones tasked with delivering the drugs, sometimes in conjunction with a doctor.

(Malpas, P., Mitchell, K. & Koschwanez, H. (2015). End-of-life medical decision making in general practice in New Zealand—13 years on. *New Zealand Medical Journal*, 128 (1418), 27-39).

## End-of-life & euthanasia: The main ethical issues

In general, there is confusion, anxiety or uncertainty about a number of related terms, e.g...

- Withdrawal of life sustaining treatment
- "Comfort measures only..."
- Physician Assisted suicide
- Palliative sedation

But a great deal depends on...

- **The meaning of euthanasia and related problems**



## The meaning of euthanasia

The term 'euthanasia' has been associated with... "a good death", "mercy killing", "assisted dying", "assisted suicide" and "termination of life on request."

A basic definition:

- "A deliberate intervention undertaken with the express intention of ending a life, to relieve intractable suffering."

(Report of the Select Committee on Medical Ethics (HL Paper 21-1 of 1993-94) hereafter 'Lord's Report') Paragraph 20.

## A wider definition of euthanasia?

"Euthanasia includes not only the intentional of a patient's life by an act such as a lethal injection but also the intentional termination of life by omission. Consequently, a doctor who switches off a ventilator, or who withdraws a patient's tube feeding, performs euthanasia *if the doctor's intention is to kill the patient.*"

"Euthanasia by deliberate omission is often called 'passive euthanasia' to distinguish it from active euthanasia." (Keown, 2001, p.12).

(Keown, J. (2001). *Euthanasia, Ethics and Public Policy: An Argument Against Legalisation*. Cambridge: Cambridge University Press.)

## Current legal alternatives to active euthanasia/PAS

### Patient controlled:

- **Refusal of interventions**

Patients have the legal right to consent to, decline, or withdraw any intervention (e.g., surgery, chemotherapy, pacemakers, ventilators, medications including antibiotics, IV fluids) or settings of care.

- **Refusal of food or oral fluid**

Patients with advanced disease often lose appetite and/or thirst. This is based on the principle of bodily integrity, i.e. force-feeding is not acceptable.

### Patient requested/medical choice

- **Palliative sedation**

For those with unbearable and unmanageable pain or other intractable symptoms who is approaching the last hours or days of his or her life, the induction and maintenance of a state of sedation is generally considered as legally acceptable.

## 2 arguments for Euthanasia:

### a) "Administering aid to the dying"

- ... the administration by a medical practitioner, or a person acting under the general supervision of a medical practitioner in the context of a patient/physician relationship, of medication or other treatment that brings about the death of a patient who:

(1) being competent to do so, clearly consents to the administration of that aid; and

(2) is suffering from a grievous and terminal illness that causes enduring suffering that is intolerable to the individual in the circumstances of his or her illness

(extract from the submission of Lecretia Seales, SEALES v ATTORNEY-GENERAL [2015] NZHC 1239 [4 June 2015])

### b) Euthanasia as a human rights issue

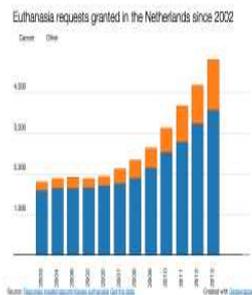
- The New Zealand Bill of Rights Act 1990 (the NZBORA) states certain rights including the "right not to be deprived of life" and the right not to be "subjected ... to cruel, degrading, or disproportionately severe treatment".
- In the Lecretia Seales argument, to be deprived of the right to bring an end such treatment if necessary was a significant claim.



## 2 arguments against euthanasia:

### a) the 'slippery slope' argument

- The Dutch euthanasia law regulates physician assistance in dying for patients who are suffering unbearably from a medical condition.
- Raijmakers et al., 2013 studied the attitudes of the Dutch population to assistance in dying for older persons who have a wish to die without the presence of a serious medical condition.
- 26% agreed with a vignette in which a physician warrants the request for physician-assisted suicide of an older person who is tired of living without having a serious medical condition.
- 21% agreed with the statement 'In my opinion euthanasia should be allowed for persons who are tired of living without having a serious disease'.



### b) Disquiet with the notion of *active euthanasia*

- Not physician assisted suicide but physician controlled death, usually by a lethal injection at an appointed time.
- The moral argument is that the tradition of the 'double effect' is challenged in cases of active euthanasia inasmuch as the intent changes from one of pain relief and control to one of deliberately killing another person.

### Proposed practice: Physician Assisted Suicide (PAS)

With physician assisted suicide, a doctor provides a patient with a prescription for drugs that a patient could use to end his or her life.

The main distinction between physician assisted suicide and active euthanasia is that the doctor is not the person physically administering the drugs.

Physician assisted suicide is only contemplated by—and would only be considered as an option for—patients who are conscious and capable of making their own decisions.

### And the role of the nurse in PAS?

- Unclear in past and possibly present proposed legislation.
- The word 'nurse' has not appeared in previously proposed legislation.
- It could involve being the one who:
  - prepares the required drugs but does not deliver them.
  - assists the doctor administration of the drugs to the patient.
  - administers the drugs to the patient.

### Ending life: The main issues

- Not every nurse necessarily has an opinion about end of life choice issues.
- Some nurses are clearly pro-choice, and support the individuals right to decide when and how he/she is to die.
- Some nurses are clearly against any act that involves one individual killing another, whether it is acceptable to both or not.
- Some nurses would most likely take part in active euthanasia; others would not.
- All nurses need to be part of any nationwide debate about end of life/euthanasia issues.
- *Palliative care nurses in particular need to be part of the current debate.*

### The perceived ethical position for palliative care nurses (PCNs)

Palliative care nurses are currently presumed to reflect the ethical position outlined by either their employing organisation:

E.g. Mary Potter Hospice, Te Omanga, etc....

and/or an overarching nationally based organisation:

E.g. Hospice NZ, the Palliative Care Council, Palliative Care Nurses New Zealand (PCNNZ), the Australasian Society for Palliative Care Medicine Specialists (ASPMS), the Health Professional Association (HPNZ) and the New Zealand Medical Association (NZMA)).

...however, their own personal viewpoint is often unknown, unexplained or subsumed within either in organisational or public forums.

## OPEN FORUM AND CRITIQUE OF PROPOSED SURVEY

## ARTICULATING AN ETHICAL POSITION

- Are you prepared to offer a considered opinion about end of life issues?
- Would you ever support (active or passive) euthanasia?
- What is your opinion about assisted suicide?
- Should Palliative Care Nurses have a collective response to end of life issues, and especially towards euthanasia?

## CRITIQUE OF SURVEY

Please consider the following questions and write directly onto the survey document (N.B. no names or other identifiable information is required):

1. Is the survey easy enough to read and understand?
2. Are the questions suitable for such a survey?
3. Are there any questions that may be misleading or 'leading'?
4. Are there any questions that are missing and should be asked?
5. Is 10-15 minutes long enough to complete the survey?

## END OF PRESENTATION



## SPARE SLIDES

## An example: PCNNZ

PCNNZ advocate that:

- Palliative care should be routinely available to all who need it, and Government should prioritise and ensure that public funding is made available to increase the availability of palliative care, whether provided by hospital, at home (by the primary health care team), in residential aged care facilities or hospices.
- All patients should be made aware of the options for hospice and palliative care, and should be offered individual assessment of their needs to ensure that appropriate palliative care is being provided.
- PCNNZ supports the position of the Australia & New Zealand Society of Palliative Medicine (ANZSPAM) who advocate, focus should be on excellence in hospice and palliative care and not euthanasia or assisted dying.  
(<http://www.pcnnz.co.nz/content.asp?syscmd=dl&ID=FCD5E39A299D492F819A89391CBB025B> )

### Current practices:

#### Withdrawal of life sustaining measures

"The decision to withdraw a life-sustaining measure implies that a level of acceptance about the benefits of continuing the measures has been reached, both by the clinicians involved and the family.

The decision signifies that a stage has been reached where the evidence points to the fact that the patient undeniably and irrefutably is receiving no benefit from the interventions proposing to be withdrawn.

Arguably, the consent processes for withdrawing medical treatment may be less onerous than for withholding medical treatment, most likely because the patient's condition has stabilised to the extent that no further improvement is expected"(Centre for Healthcare Improvement, n.d. p.15).

### An example: Hospice NZ

- Hospice New Zealand does not support a change in the law to legalise assisted dying in any form. Nor do we consider that a change in the law would be in the best interests of the people we care for.
- It is important to stress that hospices' always work strictly within the law, which currently means it is a criminal action to help someone commit suicide and may result in prosecution.
- We believe Government should be investing in palliative care, increasing access to care and support not legalising euthanasia. Only when all New Zealanders have ready access to expert end-of-life care can a balanced debate begin. We support that all New Zealanders have the right to choose where they die.  
(<http://www.hospice.org.nz/about-hospice-nz/euthanasia-our-opinion>)

### And another example...

- Mary Potter Hospice offers free specialist palliative care to people with a life limiting or terminal illness from Wellington city to Kapiti.
- The values of Mary Potter Hospice which shape the way we deliver our service include respect, compassion, dignity, hospitality and stewardship.
- Assisted dying in any form is against the ethos of Mary Potter Hospice.
- We would oppose any change in the legalisation to legalise the practice of assisted dying.

(<http://www.marypotter.org.nz/about-us/key-issues/>)

There is some NZ based evidence that nurses in general have ethical concerns about end of life issues

#### *Frequency of moral distress: Top five situations*

- |   |              |
|---|--------------|
| 1. Less than optimal care due to management issues              | 39.1%        |
| 2. Watch patient care suffer due to lack of provider continuity | 37.9%        |
| 3. Work with nurses/others who are not as competent             | 36.4%        |
| 4. <b>Carry out physician orders for unnecessary tests</b>      | <b>33.5%</b> |
| 5. <b>Initiate extensive actions when only prolonging dying</b> | <b>31.6%</b> |

(Woods et al., 2012).

### One nurse's comments about end-of-life care in hospital (Woods et al., 2012).

"There have been times when other staff and myself have been caring for a patient, obviously dying - peripheral oedema, no appetite, pain, low mobility etc, etc, very obviously in distress - and we are asked to:

- continue to put down a nasogastric tube and continue feeding nasogastrically
- continue giving IV antibiotics
- try to get them out of bed to weigh them..."

### 'Comfort measures only...'

#### Comfort Measures Only May Include:

- ✓ Focusing on the dying and their loved ones, eliminating sources of discomfort
- ✓ Providing effective pain and symptom management through the use of medications and other therapies
- ✓ Offering a quiet, private environment that supports the intimate process of dying
- ✓ Encouraging personal rituals that may honor or celebrate the person dying
- ✓ Providing support, reassurance, and information about grief, bereavement, and information and guidance about the dying process
- ✓ Providing spiritual care as desired
- ✓ Offering food and fluids as the dying person desires and is able to take
- ✓ Preventing constipation, even if oral intake has been minimal

- ✓ Positioning at frequent intervals to prevent bedsores
- ✓ Offering frequent mouth care for discomfort from drying (as tolerated)
- ✓ Instilling artificial tears or eye lubricant for discomfort from drying
- ✓ Limiting vital signs to respirations (breathing) and temperature (this practice may vary)
- ✓ Stopping medications that are not essential to promoting comfort, including antibiotics
- ✓ Stopping needle sticks and blood draws, including finger sticks for blood sugar
- ✓ Removing nonessential equipment that may distract care providers and loved ones from focusing on the one who is dying, including cardiac monitors, blood pressure cuffs, pulse-oximeter probes, compression stockings feeding tubes and tube feedings, IV access devices, Foley catheters, wound vacs, oxygen and more, depending on the goals of care. (Moneymaker 2005, p. 688)

**END**

XXX Re the end-of-life and euthanasia survey:

If you so wish, please take a copy, fill it in (it should take about 10-15 mins) and return the completed copy to the sealed box that is provided at the main desk.

If you want to take it home and post it later, the address is:

Dr Martin Woods, School of Nursing, Midwifery & Health, XXXXXXX.