



17 April 2008

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Department of the Senate
Parliament House
Canberra ACT 2600

Email: legcon.sen@aph.gov.au

Dear Secretary

The Australian Nursing Federation is pleased to have the opportunity to contribute to the Inquiry into the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008, and offers the following submission to inform this Inquiry.

The ANF is the national union for nurses, with branches in each State and Territory of Australia. It is also the largest professional nursing organisation in Australia, with a membership of over 150,000 nurses, employed in a wide range of enterprises in urban, rural and remote locations in both the public and private sectors.

The ANF participates in the development of policy in nursing, nursing regulation, health, community services, veteran's affairs, education, training, occupational health and safety, industrial relations, immigration and law reform. Nurses make up around 54% of the entire health workforce.

Euthanasia is a complex issue facing the Australian community, and an issue which elicits strong responses. ANF members come from a diverse range of cultural, religious and ethnic backgrounds, and hold a broad range of views about euthanasia.

Euthanasia is currently illegal in Australia, and nurses are obliged to practice according to both their professional codes of ethics and practice, and the law. If euthanasia were to become legal, ANF's position is consistent with the Code of Ethics for Nurses in Australia, where nurses have the right to conscientiously object to participating in voluntary euthanasia, while ensuring that an individual's wishes are respected and quality of care and safety is not compromised.

Adult patients with decision-making capacity have the common law right to refuse medical treatment offered to them. The ANF supports advance care planning, where individuals can provide instructions for their future treatment and end-of-life decisions while they have the capacity to do so.

The industrial and professional organisation for nurses and midwives in Australia

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2.

Please refer to the supporting documents attached, the ANF Position Statement on Voluntary Euthanasia, and the Code of Ethics for Nurses in Australia.

Yours sincerely,

GED KEARNEY
Assistant Federal Secretary



anf position
statement

australian nursing federation

voluntary euthanasia¹

Voluntary euthanasia is a complex social issue which is currently being debated by the community. Those contributing to the debate include: providers of medical and nursing care; those seeking to end their lives due to pain and illness; advocates for voluntary euthanasia; ethicists; religious organisations; and the broader community.

It has become an issue for a range of reasons including: the advent of modern medical technology which makes it possible to artificially prolong life; cases which have arisen where existing laws have been challenged, such as the Northern Territory 'Rights of the Terminally Ill Act of 1996', which was overturned by the Australian Government; and the growing population of older people and those with terminal illnesses.

It is the position of the Australian Nursing Federation that:

1. As euthanasia is not legal in Australia, nurses and midwives are obliged by both the law and their professional codes of practice and ethics, to practice within the law.
2. The ANF recognises that its membership comes from diverse cultural, religious, and ethnic backgrounds, and that members hold a range of ethical views on the subject of voluntary euthanasia.
3. Nurses and midwives have the right to hold their own opinion and for their opinion to be respected.
4. Adult patients with decision-making capacity have a common law right to consent to or refuse medical treatment which is offered to them.
5. Nurses and midwives have a professional responsibility to stay reliably informed about the ethical, legal, cultural and clinical implications of voluntary euthanasia.
6. The Australian Nursing Federation has a role in providing nurses and midwives with information about issues related to voluntary euthanasia and providing a forum for nurses and midwives to debate those issues. Its role is also to participate in the broader public debate as an appropriate organisation to ensure that the nursing and midwifery voice is heard.
7. In the event that voluntary euthanasia becomes legalised, nurses and midwives have the right to conscientiously object to participating in the carrying out of voluntary euthanasia.

8. The ANF supports advance care planning where individuals consider end-of-life decisions while they have the capacity to do so, and to provide instructions about their wishes for future treatment for their family and the health professionals treating them to follow.

endorsed december 2007

¹ Euthanasia means 'an easy death' (Macquarie Dictionary), although the language of euthanasia is complex. Voluntary euthanasia is where one person terminates the life of another person at that person's request in order to bring an end to suffering due to pain and illness (Human Rights and Equal Opportunity Commission 1996 Human rights and euthanasia: occasional paper. Canberra. Commonwealth of Australia, pp.2-3). Non-voluntary euthanasia is where one person terminates the life of another person without that persons consent. Active euthanasia refers to an active contribution to bringing about the death of a person. Passive euthanasia refers to the omission of steps which might be taken in order to sustain life.

CODE OF ETHICS FOR NURSES IN AUSTRALIA

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Background

This Code of Ethics has been developed for nursing in the Australian context and is relevant to all nurses in all practice settings.

The impetus for its development came at the Australasian Nurse Registering Authorities Conference (ANRAC) of 1990, when the research arising from the ANRAC Nursing Competencies Assessment Project indicated that there was not a clear focus on the ethical standards expected and required of nurses practising in the cultural context of Australia.

The Code of Ethics for Nurses in Australia was first developed in 1993 under the auspices of the then Australian Nursing Council Inc., Royal College of Nursing, Australia and the Australian Nursing Federation. In 2000 these peak organisations agreed to undertake a joint project to review the Code of Ethics. It is recognised that the Code of Ethics could not have been realised without the participation of nurses and nursing organisations in Australia, whose many submissions and comments are acknowledged and appreciated.

The Code of Ethics outlines the nursing profession's intention to accept the rights of individuals and to uphold these rights in practice. The Code of Ethics is complementary to the International Council of Nurses (ICN) Code of Ethics for Nurses (2000).

The purpose of this Code of Ethics is to:

- identify the fundamental moral commitments of the profession,
- provide nurses with a basis for professional and self reflection on ethical conduct,
- act as a guide to ethical practice, and
- indicate to the community the moral values which nurses can be expected to hold.

Introduction

The nurse's primary professional responsibility is to people requiring nursing care. In fulfilling this responsibility nurses provide care and support before and during birth and throughout life, and alleviate pain and suffering during the dying process. Nurses enable individuals, families and groups to maintain, restore or improve their health status, or to be cared for and comforted when deterioration of health has become irreversible.

A traditional ideal of nursing is the concern for the care and nurture of human beings giving just and due consideration to their ethnicity, culture, gender, spiritual values, sexuality, disability, age, economic, social or health status, or any other grounds. Nurses respect and uphold the rights of Australian Indigenous peoples. The profession also acknowledges the cultural diversity in contemporary Australian society.

Nursing care is based on the development of a therapeutic relationship and the implementation and evaluation of therapeutic processes. Therapeutic processes include health promotion and education, counselling, nursing interventions and empowerment of individuals, families or groups to exercise maximum choice in relation to their health care.

Nursing practice is undertaken in a variety of settings. Any particular setting will be affected to some degree by processes which are not within a nurse's control or influence. The processes affecting nursing practice can include government policies, laws, resource constraints, institutional policies, management decisions, and the practice of other health care providers. Nurses also recognise the potential for conflict between one person's needs and those of another, or of a group or community.

Such factors may affect the degree to which nurses are able to fulfil their moral obligations and/or the number and type of ethical problems they may face.

The Code contains six broad value statements. Nurses are encouraged to use these statements as a guide in reflecting on the degree to which their practice demonstrates those values. As a means of assisting in interpretation of the six values, a number of explanatory statements are provided.

These explanatory statements are not intended to cover all the aspects a nurse should consider, but can be used to assist further exploration and consideration of ethical concerns in nursing practice.

Nurses are also encouraged to undertake discussion and educational opportunities in ethics in order to clarify for themselves issues related to the fulfilment of their moral obligations. This Code of Ethics is not intended to provide a formula for the resolution of ethical problems, nor can it adequately address the definitions and exploration of terms and concepts which are part of the study of ethics.

Nurses are autonomous moral agents and sometimes may adopt a personal moral stance that would make participation in certain procedures morally unacceptable to them. Nurses have a right to refuse (conscientious objection) to participate in procedures, which they judge on strongly held moral beliefs to be unacceptable. In exercising their conscientious objection nurses must take all reasonable steps to ensure that quality of care and patient safety is not compromised.

Nurses accepting employment positions where they foresee they may be called on to be involved in situations at variance with their sincerely held beliefs, have a responsibility to acquaint their employer or prospective employer with this fact within a reasonable time. Nurses, however, should consider seriously whether it is appropriate for them to accept employment positions where they see these situations may arise, particularly if this is likely to be more than a rare occurrence.

Employers and colleagues have a responsibility to ensure that such nurses are not overtly or covertly discriminated against in their workplace.

The Code of Ethics is supported by the Code of Professional Conduct for Nurses in Australia. While the Code of Ethics focuses on the ethics and ideals of the profession, the Code of Professional Conduct identifies the minimum requirements for practice in the profession, and focuses on the clarification of professional misconduct and unprofessional conduct. The two Codes, together with published practice standards, provide a framework for nursing.

Interpretation of Terms

Accountability: the state of being answerable for one's decisions and actions. It cannot be delegated (ANRAC 1990).

Individual/individuals: refers to a person/persons receiving nursing care.

Moral Agent: a person who acts morally/ethically on his or her own authority.

Responsibility: the obligation that an individual assumes when undertaking to carry out planned/delegated functions. The individual who authorises the delegated function retains accountability (ANRAC 1990).

Ethics: the moral practices, beliefs, and standards of an individual/s and/or a group.

Ethical problem: a situation that requires ethical consideration or ethical decision making, or a conflict of moral values.

VALUE STATEMENT 1

Nurses respect individual's needs, values, culture and vulnerability in the provision of nursing care.

Explanatory Statements

- 1 Nurses acknowledge the diversity in contemporary Australian society. Nursing care for any individual or group should not be compromised because of ethnicity, culture, aboriginality, gender, spiritual values, sexuality, disability, age, economic, social or health status, or any other ground.
- 2 Respect for an individual's needs includes recognition of the person's place in a family and community. Nurses should, therefore, facilitate the participation of significant others in the care of the individual if, and as, the person and the significant others wish.
- 3 Respect for individual needs, beliefs and values includes culturally informed and appropriate care, and the provision of as much comfort, dignity, privacy and alleviation of pain and anxiety as possible.
- 4 Respect includes the development of confidence and trust in the relationship between nurses and the people for whom they care.
- 5 Nurses acknowledge that there is a power imbalance in the relationship between a person or group receiving nursing care and a health care provider. To promote a trusting and professional relationship, and to prevent any exploitation of individuals, nurses have an ethical responsibility always to maintain appropriate professional boundaries between themselves and persons to whom they provide care.

VALUE STATEMENT 2

Nurses accept the rights of individuals to make informed choices in relation to their care.

Explanatory Statements

- 1 Individuals have the right to make decisions related to their own health care, based on accurate and complete information given by health care providers. Nurses must be satisfied that they have the person's consent for any care or treatment they are providing. If individuals are not able to provide consent for themselves, nurses have a role in ensuring that valid consent is obtained from the appropriate substitute decision-maker.
- 2 Nurses have a responsibility to inform people about the nursing care that is available to them, and people are entitled morally to accept or reject such care. Nurses have a responsibility to respect the decisions made by each individual.
- 3 Illness and/or other factors may compromise a person's capacity for self-determination. Where able, nurses should ensure such persons continue to have adequate and relevant information to enable them to make informed choices about their care and treatment and to maintain an optimum degree of self-direction and self-determination.

VALUE STATEMENT 3

Nurses promote and uphold the provision of quality nursing care for all people.

Explanatory Statements

- 1 Quality nursing care includes competent care provided by appropriately prepared nurses.
- 2 Promotion of quality nursing care includes valuing life long learning and engaging in continuing education as a means of maintaining and increasing knowledge and skills. Continuing education refers to all formal and informal opportunities for education.
- 3 Nurses research and evaluate nursing practice in order to raise standards of care, and to ensure that such standards are ethical.
- 4 Research should be conducted in a manner that is ethically responsible and justified. Nurses should not participate in any research or experimental treatment on human subjects, which has not been approved by an institutional ethics committee, and which is not conducted in a manner consistent with the requirements of the National Health and Medical Research Council's national statements relating to ethical conduct in research involving humans.
- 5 Nurses contribute to the development and implementation of policy to make the best use of available resources and to promote quality care for individuals.

VALUE STATEMENT 4

Nurses hold in confidence any information obtained in a professional capacity, use professional judgement where there is a need to share information for the therapeutic benefit and safety of a person and ensure that privacy is safeguarded.

Explanatory Statements

- 1 The nurse respects a person's rights to determine who will be provided with their personal information and in what detail. Exceptions may be necessary in circumstances where the life of the individual may be placed in danger or where disclosure is required by law.

- 2 When personal information is required for teaching, research or quality assurance purposes, care must be taken to protect the person's autonomy, anonymity and privacy. Consent must always be obtained from the person or their lawful advocate.
- 3 Nurses protect persons in their care against breaches of privacy by confining their verbal communications to appropriate personnel and settings, and for professional purposes.
- 4 Nurses have an obligation to adhere to legislative guidelines limiting access to personal records (whether paper or electronic).

VALUE STATEMENT 5

Nurses fulfil the accountability and responsibility inherent in their roles.

Explanatory Statements

- 1 As morally autonomous professionals, nurses are accountable for their clinical decision making and have moral and legal obligations for the provision of safe and competent nursing care.
- 2 Nurses contribute with other health care providers in the provision of comprehensive health care, recognising and respecting the perspective and expertise of each team member.
- 3 Nurses have a right to refuse to participate in procedures, which would violate their reasoned moral conscience (ie. conscientious objection). In doing so, they must take all reasonable steps to ensure that quality of care and patient safety is not compromised.
- 4 Nurses have an ethical responsibility to report instances of unsafe and unethical practice. Nurses should support colleagues who appropriately and professionally notify instances of unsafe and unethical practice.

VALUE STATEMENT 6

Nurses value environmental ethics and a social, economic and ecologically sustainable environment that promotes health and well being.

Explanatory Statements

- 1 Nursing includes involvement in the detection of the ill effects of the environment on the health of persons, the ill effects of human activities on the natural environment, and assisting communities in their actions on environmental health problems aimed at minimising these effects.
- 2 Nurses value participation in the development, implementation and monitoring of policies and procedures, which promote safe and efficient use of resources.
- 3 Nurses acknowledge that the social environment in which a person resides has an impact on their health, and in collaboration with other health professionals and consumers, initiate and support action to meet the health and social needs of the public.

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The Australian Nursing Council has officially changed its name to the Australian Nursing and Midwifery Council.

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