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ANZCA
AUSTRALIAN AND NEW ZEALAND COLLEGE OF ANAESTHETISTS

FPM
FACULTY OF PAIN MEDICINE ANZCA

Parliament of Western Australia Joint Select Committee on End of Life Choices

Inquiry into End of Life Choices

October, 2017

To serve the community by fostering safety and high quality patient care in anaesthesia, perioperative medicine and pain medicine.

1. ANZCA feedback to the Inquiry

On 23 August 2017, the Parliament of Western Australia established a Joint Select Committee of the Legislative Assembly and Legislative Council to inquire and report on the need for laws in Western Australia to allow citizens to make informed decisions regarding their own end of life choices, and in particular:

a) assess the practices currently being utilised within the medical community to assist a person to exercise their preferences for the way they want to manage their end of life when experiencing chronic and/or terminal illnesses, including the role of palliative care;

b) review the current framework of legislation, proposed legislation and other relevant reports and materials in other Australian States and Territories and overseas jurisdictions;

c) consider what type of legislative change may be required, including an examination of any federal laws that may impact such legislation; and

d) examine the role of Advanced Health Directives, Enduring Power of Attorney and Enduring Power of Guardianship laws and the implications for individuals covered by these instruments in any proposed legislation.

While ANZCA cannot comment on the need for laws in Western Australia to allow citizens to make informed decisions regarding their end of life choices, the College believes it can make a valuable contribution to the Committee's considerations of any proposed legislative framework regarding voluntary assisted dying.

ANZCA's position on these issues was developed in response to a January 2017 Victorian Ministerial Advisory Panel on Voluntary Assisted Dying (VAD) discussion paper. In preparing a submission to the Victorian discussion paper, ANZCA sought wide feedback across Australia and New Zealand to reflect the views of ANZCA and FPM Fellows, trainees, specialist international medical graduates individually and as members of key committees on their views in relation to this issue. ANZCA's submission to the discussion paper is available on the College's website (www.anzca.edu.au).

Since then, a VAD Bill has been introduced to the Victorian parliament and New South Wales has released a draft VAD Bill for public comment. In preparing this response to the Parliament of Western Australia Joint Select Committee on End of Life Choices Inquiry, ANZCA draws upon our previous submissions. ANZCA's Professional Document PS38 (2010) *'Statement relating to the relief of pain and suffering and end of life decisions'* (attached) is also of relevance.

The issue of legalised VAD for terminally ill people is a very important one for anaesthetists and specialist pain medicine physicians who may be involved from time to time in end of life discussions and decisions.

ANZCA approaches the issue of VAD from the perspective of patient advocacy:

- to protect patients' rights and to ensure that patients can exercise these rights; and
- from a health advocacy standpoint, to ensure that research into palliative care is not an unintended casualty of this process.

ANZCA is also concerned to ensure that medical practitioners, in particular specialist anaesthetists and pain medicine physicians, are protected appropriately under any legislation, and not required to undertake activities which they deem inappropriate or contrary to their personal beliefs or their professional responsibilities towards their patients.

Broad themes in relation to ANZCA's position are summarised in the pages following.

Involvement of specialist medical colleges

- Prescribed information that medical practitioners provide those considering their end of life choices should be a guideline only in any legislation.
- Specialist expertise required for medical practitioners to participate in VAD must be guided by input from specialist medical colleges.

Specialist expertise required

- Medical practitioners should receive appropriate education and be trained as part of their continuing medical education to develop the skills needed to participate in VAD and to provide appropriate advice to those seeking it.

Patient choice

- The process should be patient-centred.
- Alleviation of patient suffering should take priority; no period of intolerable suffering is 'acceptably short'.
- A patient suffering debilitating pain may be unable or unwilling to travel long distances to seek appropriate advice and care and those living in rural and remote areas should have the same rights and choices as an individual living in a metropolitan area.

Legal protections for medical practitioners

- A medical practitioner should be allowed to be present at the time the patient self-administers the lethal dose of medication if this is requested by that patient.
- A medical practitioner treating a patient who has chosen to self-administer a lethal dose of medication should be obliged to follow and respect the patient's wishes, and to act with the high degree of professionalism that is expected when providing usual care.
- The recorded cause of death should be the underlying disease process or primary diagnosis that made the patient eligible for a voluntary assisted death.
- A voluntary assisted death should not be reportable if undertaken in accordance with the legislative requirements, as the death would not meet the criteria of being unexpected or illegal.
- Unusual or suspicious circumstances surrounding a death should be dealt with in the usual manner, including a report being made to the coroner.
- An oversight body should refer a matter to another agency (such as the Coroner's Court) when there are concerns about irregularities including: acting outside the scope of practice; acting outside the law; family coercion; or misuse of a lethal drug.
- This oversight body should not have investigatory powers and any investigation should be conducted by existing independent agencies.

Palliative care

- It will be essential to ensure VAD is not a substitute for good palliative care and does not diminish research into palliative care.
- Support should be shown for the concept of death with dignity and comfort and the right of terminally ill patients to receive expert palliative care.
- There should be resourcing for alternative therapeutic and palliative care services and for rural and remote areas, including access to suitably qualified healthcare professionals.

Safeguards

- All safeguards in any proposed legislative framework should be applied meaningfully and not just as an administrative process to complete.
- Safeguards to protect vulnerable patients are crucial.
- 'Subtle coercion' and the difficulty in identifying it are of concern. Family members or parties known to have an interest, including pecuniary interests, in whether the patient lives or dies should not be able to be witnesses to the request process.
- There must be additional safeguards that protect both the patient and the medical practitioner involved in all cases of self-administered medication.
- The form of storage and the location of the lethal dose of medication must be documented to ensure accurate accounting of whether or not the patient has ingested it.

Conscientious objection

- Participation by medical practitioners and health services in a voluntary assisted death should be voluntary with no need for any objection to be qualified.
- There may be difficulties in compelling medical practitioners with a conscientious objection to make a personal referral to another medical practitioner when a patient requests VAD information or assistance. Some medical practitioners will consider such a referral to be a violation of their personal values.

Regional, rural and remote considerations

- People in rural/remote areas are disadvantaged by inter-related issues of distance, travel and access to services.
- Medical practitioners who live in rural and remote areas and who agree to be part of the VAD process may face ostracism by the community where they live and practise.
- A patient suffering debilitating pain may be unable or unwilling to travel long distances to seek appropriate advice and care but should have the same rights and choices as an individual living in a metropolitan location.
- Rural patients may be disadvantaged by difficulties of access to services (for example, a palliative care physician or palliative care services, obtaining two independent medical reviews and, in particular, the advice of a medical practitioner who has knowledge of the disease process and its prognosis; and psychiatric or other specialist referral), and difficulties in accessing their wishes due to lack of access to advanced care plans, living wills, statements on electronic health records and websites in urgent care situations.
- Mechanisms should be developed to ensure access to information on VAD at any medical facility a patient might present to (in their own community or in a centre away from home in cases of a rapid deterioration or trauma while travelling).

Other aspects of voluntary assisted dying and end of life choices

- Mandatory psychiatric assessment for all patients considering VAD and their end of life choices is not necessary. Psychiatric assessment should be required only where there is reasonable doubt or concern relevant to the patient's capacity so that support can be provided in borderline or complex cases.
- Predictions for end of life are often inaccurate and any minimum timeframe should be applied with caution to avoid prolonging suffering.

- Two appropriately qualified practitioners from different specialties who are appropriately trained in the legislative requirements should undertake the patient assessments and provide information.
- As the dispenser of the lethal dose of medication from a community or hospital pharmacy, the pharmacist will play a key role in the understanding of, and adherence to, the legislation.
- Appropriate compensation for medical practitioners involved in the VAD process will need to be considered. VAD will be time-consuming and emotionally draining. Separate Medicare Benefits Schedule item numbers or alternative state-based compensation may be required.
- Ongoing discussions with the community should be encouraged and facilitated alongside the discussions regarding VAD, such as the issue of "futile surgery" as part of the spectrum of discussions around respecting the rights of the patient to accept death.
- How the process should be governed will be influenced by some details yet to be determined, such as the type of medications used. Further consultation may be required as these details are established.
- It could be useful to establish an advisory group for medical practitioners to provide support with issues related to VAD independent from the legal process.
- It may occasionally be necessary to provide pain relieving procedures and/or anaesthesia (and surgical) services to an individual who has chosen and been approved for VAD. Consideration must be given to either suspension of such wishes during the acute period of medical care (as in advanced care directives) or a specific acknowledgement of the limitations of resuscitation to be undertaken. This is in recognition that an individual may not 'have reached the time' for ending their life.
- Consideration must be given to the obligations of, and legal protections for, health practitioners (including paramedics) in cases where the lethal dose of medication is not effective for any reason, particularly in the absence of the patient having an advanced care directive.

2. About ANZCA

The Australian and New Zealand College of Anaesthetists (ANZCA) is the professional organisation for specialist anaesthetists (Fellows) and specialist anaesthetists in training (trainees) in Australia and New Zealand.

This year, ANZCA celebrates its 25th anniversary as a medical college, though its history stretches back 65 years to when it was established in 1952 as a faculty of the Royal Australasian College of Surgeons.

ANZCA is now a world-renowned institution in anaesthesia and pain medicine that has taken a leading role in many areas of anaesthesia, pain medicine and intensive care medicine. These include:

- Being recognised as a world leader in the treatment of pain by establishing the specialty of pain medicine through its Faculty of Pain Medicine.
- Setting high professional standards for patient safety through professional documents and other advocacy activities.
- Answering key questions in medical research by recruiting more than 30,000 patients to help with $A25 million worth of studies for the ANZCA Clinical Trials Network and other research through the ANZCA Research Foundation, which in 2017 alone is funding research worth $1.7 million.
- Training highly skilled future Fellows in anaesthesia and pain medicine.

- Hosting more than 30 medical education events annually including the College's flagship event, the ANZCA Annual Scientific Meeting.
- Supporting anaesthesia in developing nations such as Papua New Guinea with clinical and educational visits, and the seeding of the Essential Pain Management program now being taught in 47 countries.
- Establishing intensive care medicine as a specialty by instituting training and accreditation programs through a joint Faculty of Intensive Care, and then by helping found the College of Intensive Care Medicine of Australia and New Zealand.

ANZCA, including FPM, is committed to high standards of clinical practice in the fields of anaesthesia, perioperative medicine and pain medicine. As the education and training body responsible for the postgraduate training programs of anaesthesia and pain medicine for Australia, New Zealand and parts of Asia, the College believes in ongoing continuous improvement and strives to ensure that its programs represent best practice and contribute to a high quality health system.

ANZCA's mission is to serve the community by fostering safety and high quality patient care in anaesthesia, perioperative medicine and pain medicine. From this mission flows three major objectives:

- To promote professional standards and patient safety in anaesthesia, perioperative medicine and pain medicine.
- To promote training and education in anaesthesia, perioperative medicine and pain management.
- To advance the science and practice of anaesthesia, perioperative medicine and pain management.

ANZCA Fellows and trainees

At June 30, 2017 there were 4541 active and 669 retired Fellows and 1244 trainees in Australia and 783 Fellows (of whom 83 retired) and 252 trainees in New Zealand.

3. About FPM

The Faculty of Pain Medicine (FPM) is the professional organisation for specialist pain medicine physicians (Fellows) and specialist pain medicine physicians in training (trainees).

The Faculty is responsible for the training, examination and specialist accreditation of specialist pain medicine physicians and for the standards of clinical practice for pain medicine in Australia and New Zealand. Formed in 1998, the Faculty is the first multidisciplinary medical academy in the world to be devoted to education and training in pain medicine. Although part of ANZCA, the Faculty's fellowship and representation remains multidisciplinary at all levels. It arose out of collaboration between five participating bodies – ANZCA, the Royal Australasian College of Physicians (RACP), the Royal Australasian College of Surgeons (RACS), the Royal Australian and New Zealand College of Psychiatrists (RANZCP) and the Australasian Faculty of Rehabilitation Medicine (AFRM) of the RACP.

In 2005, the discipline was recognised in Australia as a medical specialty in its own right and was accredited as a scope of practice in New Zealand in 2012. This recognises the importance of the problem of unrelieved pain in the community and the need for a comprehensive medical response through education, training and practice.

The field of pain medicine recognises that the management of severe pain problems requires the skills of more than one medical craft group. Such problems include:

- Acute pain (post-operative, post-trauma, acute episodes of pain in 'medical conditions').

- Cancer pain (pain directly due to tumour invasion or compression, pain related to diagnostic or therapeutic procedures, pain due to cancer treatment).
- Persistent (chronic) pain (including over 200 conditions described in the International Association for the Study of Pain (IASP) *Taxonomy of Chronic Pain 2nd Edition*, such as phantom limb pain, post-herpetic neuralgia, mechanical low back pain). Chronic pain affects one in five Australians.

In Australia and New Zealand, a career in pain medicine is generally obtained by qualifying as a Fellow of the Faculty of Pain Medicine, Australian and New Zealand College of Anaesthetists (FFPMANZCA). Pain specialist training is also open to vocationally registered general practitioners and other specialists.

Fellows of FPM have a wide knowledge of the clinical, sociopsychobiomedical and humanitarian aspects of pain and are well placed to follow a developing and challenging career path.

Last year, world recognition for the Faculty was achieved through the awarding of the 2017 American Academy of Pain Medicine's (AAPM) Robert G. Addison, MD Award given in recognition of outstanding efforts to foster international co-operation and collaboration on behalf of the specialty of pain medicine. The European Pain Federation is now also using FPM's revised curriculum as the basis for its diploma.

FPM Fellows and trainees

At June 30, 2017, there were 317 active and 23 retired Fellows and 63 trainees in Australia, whilst there are 38 Fellows and 11 trainees in New Zealand.

4. Contact details

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PS38 (2010)

AUSTRALIAN AND NEW ZEALAND COLLEGE OF ANAESTHETISTS

ABN 82 055 042 852

FACULTY OF PAIN MEDICINE

STATEMENT RELATING TO THE RELIEF OF PAIN AND SUFFERING AND END OF LIFE DECISIONS

ANZCA's Mission Statement is "*To serve the community by fostering safety and quality patient care in anaesthesia, intensive care and pain medicine*".

ANZCA Council and the Faculty of Pain Medicine Board:

1. Support the concept of death with dignity and comfort, and the right of terminally ill patients to receive expert palliative care. They further support the provision of adequate pain relief and treatment of other symptoms to relieve suffering in the terminally ill. Relief of pain and suffering and not the death of the patient is the primary intent.

2. Recognise that there are many patients with severe pain associated with non-terminal cancer, or with conditions other than cancer, who have to suffer for prolonged periods because of ineffective treatment of the underlying disease. They are further committed to the relief of pain and suffering in such patients in order to restore quality of life, and to minimise the risk of such patients seeking to end their life.

3. Respect the right of mentally competent patients to decline treatment or to request treatment to be withdrawn, even if such treatment may be life saving.

4. Do not support the institution or continuation of medical interventions which offer no benefit to the patient.

5. Do not support the application of medical interventions in which the primary intent is to end the life of the patient.

6. Respect the individual beliefs and rights of Fellows and patients.

Associated Document: PS45 – *Statement on Patients' Rights to Pain Management*

COLLEGE PROFESSIONAL DOCUMENTS

College Professional Documents are progressively being coded as follows:

TE Training and Educational
EX Examinations
PS Professional Standards
T Technical

***POLICY** – defined as 'a course of action adopted and pursued by the College'. These are matters coming within the authority and control of the College.*

***RECOMMENDATIONS** – defined as 'advisable courses of action'.*

***GUIDELINES** – defined as 'a document offering advice'. These may be clinical (in which case they will eventually be evidence-based), or non-clinical.*

***STATEMENTS** – defined as 'a communication setting out information'.*

This document is intended to apply wherever anaesthesia is administered.

This document has been prepared having regard to general circumstances, and it is the responsibility of the practitioner to have express regard to the particular circumstances of each case, and the application of this document in each case.

Professional documents are reviewed from time to time, and it is the responsibility of the practitioner to ensure that the practitioner has obtained the current version. Professional documents have been prepared having regard to the information available at the time of their preparation, and the practitioner should therefore have regard to any information, research or material which may have been published or become available subsequently.

Whilst the College endeavours to ensure that professional documents are as current as possible at the time of their preparation, it takes no responsibility for matters arising from changed circumstances or information or material which may have become available subsequently.

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ANZCA Website: http://www.anzca.edu.au/
FPM Website: http://www.anzca.edu.au/fpm/