Te Kaunihera Rata o Aotearoa | Medical Council of New Zealand

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End Of Life Choice Act 2019 and Council Statements

A reference document

Council has not issued standards specific to practice within the purpose of the End of Life Choice Act 2019 (EOLCA). Council considers that the provision of health services under the EOLCA falls within the wider practice of medicine, to which Council's statements are directed.

To assist the profession, however, this document sets out, alongside some of the key provisions in the EOLCA, some existing Council standards that Council considers relevant.

In this document, the relevant sections of the EOLCA t have been summarised. Readers wishing to see the full text should access the Act here

Summary of EOLC provision	Statements and standards
Conscientious objection A doctor is not under any obligation to assist any person who wishes to exercise the option of receiving assisted dying under the EOLCA if the doctor has a conscientious objection to providing that assistance to the person. **Effect of conscientious objection by attending medical practitioner** [Section 9] If a person tells the attending doctor that they wish to exercise the option of receiving assisted dying; and that doctor has a conscientious objection to providing that option to the person, the doctor must tell the person of their conscientious objection; and of the person's right to ask the SCENZ Group for the name and contact details of a replacement doctor.	**Good Medical Practice – Caring for patients** [2] When you assess, diagnose, or treat patients you must provide a good standard of clinical care. This includes taking suitable and prompt action when needed and referring the patient to another practitioner or service when this is in the patient's best interests. **Good Medical Practice – Respecting patients** [20] Your personal beliefs, including political, religious and moral beliefs, should not affect your advice or treatment. If you feel your beliefs might affect the advice or treatment you provide, you must explain this to patients and tell them about their right to see another doctor. You must be satisfied that the patient has sufficient information to enable them to exercise that right. [21] Do not express your personal beliefs to your patients in ways that exploit their vulnerability or that are likely to cause them distress. **Continuity of care – Supplementary guidance – Transferring patients**

Summary of EOLC provision	Statements and standards
Assisted dying must not be initiated by health practitioner [Section 10] A doctor who provides any health service to a person must not, in the course of providing that service to the person initiate any discussion with the person that, in substance, is about assisted dying under this Act; or make any suggestion to the person that, in substance, is a suggestion that the person exercise the option of receiving assisted dying under this Act. A doctor may still— a) discuss with a person, at that person's request, assisted dying under this Act; **or** b) provide information to a person, at that person's request, about assisted dying under this Act. A doctor who contravenes the section is not treated as having committed an offence under section 39(1); **but may** ▪ under the Health and Disability Commissioner Act 1994 be found by the Health and Disability Commissioner or held by the Human Rights Review Tribunal to have acted in breach of the Code of Health and Disability Services Consumers' Rights by providing services that do not comply with relevant legal standards; **and** ▪ be the subject of disciplinary proceedings for professional misconduct under the Health Practitioners Competence Assurance Act 2003.	**Supplementary guidance – End of life care from Good medical practice** The principles of supporting a dying patient and their family/whanau including communicating effectively and sensitively are relevant and applicable whether or not the patient opts for assisted dying.

Summary of EOLC provision	Statements and standards
Request made [Section 11] A person who wishes to exercise the option of receiving assisted dying must inform the attending doctor of their wish. The attending doctor must— a) give the person the following information: i. the prognosis for the person's terminal illness; and ii. the irreversible nature of assisted dying; and iii. the anticipated impacts of assisted dying; and b) personally communicate by any means (for example, by telephone or electronic communication) with the person about the person's wish at intervals determined by the progress of the person's terminal illness; and	**Good Medical Practice** [5] You must keep clear and accurate patient records that report ▪ decisions made and the reasons for them ▪ information given to patients ▪ the proposed management plan ▪ relevant clinical information ▪ options discussed ▪ any medication or other treatment prescribed. [6] Make these records at the same time as the events you are recording or as soon as possible afterwards. [7] Take all reasonable steps to ensure that records containing personal data about patients, colleagues or others are kept securely.

c) ensure that the person understands their other options for end-of-life care; and
d) ensure that the person knows that they can decide at any time before the administration of the medication not to receive the medication; and
e) encourage the person to discuss their wish with others such as family, friends, and counsellors; and
f) ensure that the person knows that they are not obliged to discuss their wish with anyone; and
g) ensure that the person has had the opportunity to discuss their wish with those whom they choose; and
h) do their best to ensure that the person expresses their wish free from pressure from any other person by—
   i. conferring with other health practitioners who are in regular contact with the person; and
   ii. conferring with members of the person's family approved by the person; and
i) record the actions they have taken to comply with paragraphs (a) to (h) in the first part of the approved form that requests the option of receiving assisted dying.

Statement on managing patient records

[December 2020]

1(d) You must maintain clear and accurate patient records that note information given to, and options discussed with, patients (and their family or whanau where appropriate).

1(e) You must maintain clear and accurate patient records that note decisions made and the reasons for them.

Informed consent: Helping patients make informed decisions about their care [June 2021]

Factors to consider before going ahead with treatment

[11] In most situations, treatment should only go ahead if:

a) your patient has received all the information that is relevant to their decision, and
b) you are sure that your patient understands that information and the consequences of their decision.

Questions to consider before going ahead with treatment:

- What is your patient's understanding of their condition and the outcome they are hoping to achieve?
- Have you (or another colleague) explained the different treatment options including the risks and benefits of each option, and the option of not treating (adopting a see what happens with time approach)?
- Have you given your patient relevant information that would influence how they would decide?
- If your patient is unsure about your advice or recommendations, are they aware that they can seek a second opinion?
- If a proposed treatment is new, experimental or lacks scientific evidence, have you explained this to your patient?
- Has your patient had enough time to ask questions and think about how they would like to proceed?
- Does your patient have additional needs (disability, language barriers, low health literacy) and need more support to make a decision?

[12] If you are worried that your patient is making a decision that is not in their best interests, you should explain your concerns clearly to them and outline the possible consequences of their decision. Where possible, work with the patient (and those close they are close to such as family members and whanau) to find a solution that works for the patient.

Documenting discussions during the consent process

[13] You must keep clear and accurate patient records that note:

a) the information that was discussed
b) any specific risks that were highlighted
c) any request or concern expressed
d) any decisions made and the reasons for them.

Summary of EOLC provision	Statements and standards
Eligible person to choose date and time for administration of medication [Section 18] An eligible person who wishes to receive assisted dying, the must complete the approved form and return the completed form to the attending doctor. After receiving the completed form, the attending doctor must send the form to the Registrar.	**Good Medical Practice** [5] You must keep clear and accurate patient records that report: ▪ relevant clinical information ▪ options discussed ▪ decisions made and the reasons for them ▪ information given to patients ▪ the proposed management plan ▪ any medication or other treatment prescribed. [6] Make these records at the same time as the events you are recording or as soon as possible afterwards. [7] Take all reasonable steps to ensure that records containing personal data about patients, colleagues or others are kept securely. [34] You must respect and support the patient's right to seek a second opinion or to decline treatment, or to decline involvement in education or research. **Statement on managing patient records** [December 2020] [1b] You must maintain clear and accurate patient records that note relevant clinical findings. [3] Records must be completed at the time of the events you are recording, or as soon as possible afterwards. [4] Your record about the patient must be accurate and respectful. Consider the impact on the patient when they read what is written about them. **Informed consent: Helping patients make informed decisions about their care** [June 2021] [13] Documenting discussions during the consent process (see wording in previous section) [14] Not every aspect of a consultation can be noted in a patient's records. You must record enough information to provide an accurate summary of your discussion with your patient. Check that what you record is enough to guide another doctor or health practitioner if they need to follow up with your patient.

Summary of EOLC provision	Statements and standards
Administration of medication [Sections 19 and 20] [19] At least 48 hours before the chosen time for the administration of the medication, the doctor must write the appropriate prescription for the eligible person and advise the Registrar (Assisted Dying) of the method and the date and time chosen for the administration of the medication.	**Good Medical Practice – Prescribing medication or treatment** [9] You may prescribe medication or treatment, including repeat prescriptions, only when you: ▪ have adequate knowledge of the patient's health

The Registrar must then check to see that the correct processes have been followed.

[20] At the chosen date and time, the person may inform the doctor that they no longer wish to receive the medication at that time – in which case they can choose another date within six months of that date. Alternatively, the person can choose not to receive the medication and rescind their request to exercise the option of assisted dying.

If the person decides not to receive the medication at the time, the doctor must immediately take the medication away from the eligible person and complete an approved form recording the action taken to comply with the section and send the completed form to the Registrar.

- are satisfied that the medication or treatment are in the patient's best interests.

Statement on good prescribing practice [March 2020]

[41] If you do hold or dispense controlled drugs, you are required to keep a controlled drug register in accordance with the requirements of regulation 37 and as laid out in Schedule 1 of the Misuse of Drugs Regulations 1977.

Informed consent: Helping patients make informed decisions about their care [June 2021]

[10] Sometimes, your patient may have difficulty making decisions about their care. Where that happens, the doctor obtaining consent should, with the patient's permission, include those close to the patient (such as their family/whanau) in discussions about the patient's care. You must confirm with your patient their final decision before going ahead with treatment.

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Questions to consider before going ahead with treatment:

- What is your patient's understanding of their condition and the outcome they are hoping to achieve?
- Have you (or another colleague) explained the different treatment options including the risks and benefits of each option, and the option of not treating (adopting a see what happens with time approach)?
- Have you given your patient relevant information that would influence how they would decide?
- If your patient is unsure about your advice or recommendations, are they aware that they can seek a second opinion?
- If a proposed treatment is new, experimental or lacks scientific evidence, have you explained this to your patient?
- Has your patient had enough time to ask questions and think about how they would like to proceed?
- Does your patient have additional needs (disability, language barriers, low health literacy) and need more support to make a decision?

Your responsibilities

[21] The doctor undertaking the treatment or procedure is responsible for the overall informed consent processes. If you are the doctor treating the patient, you need to check that the patient is clear about their decision to have treatment before you go ahead with it.

Summary of EOLC provision	Statements and standards
Death to be reported [Section 21] Within 14 working days of a person's death as a result of the administration of medication, the attending doctor, or the attending nurse practitioner who provided or administered the medication on the instruction of the attending doctor, must send the Registrar a report in the approved form and containing the required information.	**Good Medical Practice – Keeping records** [5] You must keep clear and accurate patient records that report: ▪ relevant clinical information ▪ options discussed ▪ decisions made and the reasons for them ▪ information given to patients ▪ the proposed management plan ▪ any medication or other treatment prescribed. [6] Make these records at the same time as the events you are recording or as soon as possible afterwards. [7] Take all reasonable steps to ensure that records containing personal data about patients, colleagues or others are kept securely. **Good Medical Practice – Writing reports, giving evidence and signing documents** [55] If you have agreed or are required to write reports, complete or sign documents or give evidence, you should do so promptly, honestly, accurately, objectively and based on clear and relevant evidence. **Medical certification** [September 2013] [3] Certificates are legal documents. Any statement you certify should be completed promptly, honestly, accurate, objectively and based on clear and relevant evidence. [6] You must be aware that completing a certificate has implications for the patient, yourself, and the agency receiving the certificate.

Summary of EOLC provision	Statements and standards
Prescribing requirements [Section 22] If a doctor holds a prescription, and that prescription is no longer required, the doctor must destroy the prescription, complete an approved form recording the action, and send the form to the Registrar.	**Statement on good prescribing practice** [March 2020] [41] If you do hold or dispense controlled drugs, you are required to keep a controlled drug register in accordance with the requirements of regulation 37 and as laid out in Schedule 1 of the Misuse of Drugs Regulations 1977.

Summary of EOLC provision	Statements and standards
Recording requirements [Section 23] If an eligible person rescinds their EOL request, the doctor must complete the approved form recording that the person has rescinded their request and send the completed form to the Registrar.	**Good Medical Practice** [5] You must keep clear and accurate patient records that report: ▪ relevant clinical information ▪ options discussed ▪ decisions made and the reasons for them ▪ information given to patients ▪ the proposed management plan ▪ any medication or other treatment prescribed. [6] Make these records at the same time as the events you are recording or as soon as possible afterwards. [7] Take all reasonable steps to ensure that records containing personal data about patients, colleagues or others are kept securely. [34] You must respect and support the patient's right to seek a second opinion or to decline treatment, or to decline involvement in education or research. **Statement on managing patient records** [December 2020] [1b] You must maintain clear and accurate patient records that note relevant clinical findings. [3] Records must be completed at the time of the events you are recording, or as soon as possible afterwards. [4] Your record about the patient must be accurate and respectful. Consider the impact on the patient when they read what is written about them. **Informed consent: Helping patients make informed decisions about their care** [June 2021] [13] You must keep clear and accurate patient records that note: ▪ any decisions made and the reasons for them.

Summary of EOLC provision	Statements and standards
Recording requirements [Section 24] If the attending doctor suspects on reasonable grounds that the person is not expressing their wish for assisted dying, they must no longer assist, tell the person they are no longer assisting, and complete an approved form documenting this and send that completed form to the Registrar.	**Good Medical Practice** [5] You must keep clear and accurate patient records that report: ▪ relevant clinical information ▪ options discussed ▪ decisions made and the reasons for theminformation given to patients ▪ the proposed management plan ▪ any medication or other treatment prescribed.

[6] Make these records at the same time as the events you are recording or as soon as possible afterwards.

[7] Take all reasonable steps to ensure that records containing personal data about patients, colleagues or others are kept securely.

[34] You must respect and support the patient's right to seek a second opinion or to decline treatment, or to decline involvement in education or research.

Statement on managing patient records [December 2020]

[1b] You must maintain clear and accurate patient records that note relevant clinical findings.

[3] Records must be completed at the time of the events you are recording, or as soon as possible afterward.

[4] Your record about the patient must be accurate and respectful. Consider the impact on the patient when they read what is written about them.

Informed consent: Helping patients make informed decisions about their care

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