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Freedom of conscience and nursing in Alberta

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Introduction

Nursing has often been described as a "caring profession." For historical reasons associated with the development of nursing, it appears that most nursing guidance documents use the terms "care" or "nursing care" with respect to all nurse-patient interactions, including interventions or treatments ordered by attending physicians.

This puts objecting nurses at a rhetorical disadvantage. Objections are made to treatments or interventions, not to caring. However, in a nursing context this is more readily perceived or characterized as "refusing to care."

The failure to distinguish between "care" and "treatment" can introduce uncertainty into guidance about conscientious objection, which, for example, may insist that an objecting nurse continue to provide "care" for a patient until relieved, without specifying that the care does not include the treatment or intervention to which the nurse objects.

College and Association of Registered Nurses of Alberta (CARNA)

The College and Association of Registered Nurses of Alberta regulates the province's registered nurses and nurse practitioners. It has formally adopted the *Canadian Nurses Association Code of Ethics for Registered Nurses (2017)*, which includes detailed guidance about the exercise of freedom of conscience.[1] Three other documents are specifically relevant to conscientious objection to euthanasia and assisted suicide (EAS).

Code of Ethics (2017)

The protection of conscience provision in the 2008 CNA *Code of Ethics for Registered Nurses* was revised in 2017 by adding a sentence referring to a *Criminal Code* provision about EAS, highlighted in the passage below:

> G7. If nursing care is requested that is in conflict with the nurse's moral beliefs and values but in keeping with professional practice, the nurse provides safe, compassionate, competent and ethical care until alternative care arrangements are in place to meet the person's needs or desires. **But nothing in the Criminal Code compels an individual to provide or assist in providing medical assistance in dying**. If nurses can anticipate a conflict with their conscience, they notify their employers or persons receiving care (if the nurse is self-employed) in advance so alternative arrangements can be

made.(emphasis added)[2]

Notwithstanding the added specific reference to EAS, this guidance pertains to all morally contested services. Objecting nurses are expected to notify employers or patients (preferably in advance) of a conflict of conscience so that they can arrange for a substitute, and continue to provide "care" in the interim. Assuming the interim "care" does not entail participation in the contested service, this is a satisfactory arrangement.

More detailed guidance is provided in an appendix to the *Code*.

Ethical Considerations in Addressing Expectations That Are in Conflict with One's Conscience [Code of Ethics (2017) Appendix B]

The additional guidance explains that objections for reasons of conscience "are motivated by moral concerns and an informed, reflective choice and are not based on prejudice, fear or convenience."[3] It also introduces the important distinction between nursing "care" and "procedures and practices," though in discussing the issue it does not consistently maintain the distinction.

> Nurses may not abandon those in need of nursing **care**. However, nurses may sometimes be opposed to certain **procedures and practices** in health care and find it difficult to willingly participate in providing **care** that others have judged to be morally acceptable. (emphasis added)[4]

Nurses are advised to "communicate their desires in appropriate ways" and

> a) to notify prospective employers of conscientious convictions likely to result in workplace conflict;
>
> b) to anticipate and avoid workplace conflicts by seeking accommodation in advance of need from supervisors and employers, which allows time for alternative arrangements to be made for patients;
>
> c) if confronted by a conflict of conscience, notify supervisors, employers or patients of the need for accommodation, meanwhile continuing to provide "appropriate care to meet the person's needs."[5]

Assuming the interim "appropriate care" does not entail participation in the contested service, the additional guidance is thus far satisfactory.

However, the 2017 CNA *Code* adds a statement specific to nurse practitioners:

> In the specific case of medical assistance in dying, nurse practitioners who object to participation **may have a professional duty to make an effective referral.** (emphasis added)[6]

An "effective referral" is understood to mean making arrangements for the patient to see someone willing and able to provide the service an objecting professional refuses to provide for reasons of conscience. An indeterminate number of objectors would be unwilling to do this because they believe it entails unacceptable moral complicity in killing patients. It appears that the CNA will not support them. However, CARNA does *not* require Alberta nurse practitioners to make effective

referrals.

Two further statements in Appendix B to the CNA *Code* warrant attention:

> Employers and co-workers are responsible for ensuring that nurses and other co-workers who declare a conflict of conscience receive fair treatment and do not experience discrimination.
>
> Nurses need to be aware that declaring a conflict of conscience **may not protect them against formal or informal penalty.** (emphasis added)[7]

The second statement conflicts with the first. Imposing penalties for the exercise of freedom of conscience — especially "informal" penalties — is discriminatory. The second statement is troubling because it suggests that the CNA may be unprepared to defend nurses who are penalized for exercising freedom of conscience.

On the other hand, negotiating accommodation of freedom of conscience may entail accepting some disadvantages, such as accepting an unpopular or inconvenient shift, and this should not necessarily be construed as a "penalty."

Medical Assistance in Dying: Guidelines for Nurse Practitioners (2018)

Two years after the government imposed a standard of practice for nurse practitioners (see below), CARNA published *Medical Assistance in Dying: Guidelines for Nurse Practitioners*. Guidelines are suggestions for best practices rather than directives.

Citing the 2016 practice standard imposed by Order in Council, the document states that nurse practitioners must provide "reasonable access to the Alberta Health Services Medical Assistance in Dying Care Coordination Service . . . without delay." In other respects it provides essentially the same guidance about conscientious objection offered in *Medical Assistance in Dying: Guidelines for Nurses in Alberta* (2017).[8]

MAiD Standards of Practice for Nurse Practitioners (2016) (MAiD-NP)

By Order in Council, the government imposed the *Medical Assistance in Dying Standards of Practice for Nurse Practitioners (2016)* (MAiD-NP) on (CARNA).[9] Nurse practitioners, like physicians, can provide euthanasia and assisted suicide, and the government gave them the same direction it had given physicians six months earlier.[10]

MAID-NP requires different responses from nurse practitioners to a patient "inquiry" about euthanasia or assisted suicide and a patient's oral or written "request" for the services. In the case of an "inquiry" the standard neither requires nor precludes answering questions, but states that the patient must be given "contact information for the Alberta Health Services Medical Assistance in Dying Care Coordination Service" (AMCCS) "without delay" (para. 3).

However, AMCCS is clearly and exclusively a euthanasia and assisted suicide service,[11,12] and some objecting practitioners may refuse to help market the services by providing patients with its contact information.

Faced with a "request," an objecting practitioner is neither required nor forbidden to discuss it, but

must ensure the patient has "reasonable access" to AMCCS "without delay" (para. 4). Presumably this includes sufficient information to allow the patient to contact AMCCS, but not AMCCS contact information.

In both cases, the patient — not the practitioner — is responsible for making contact with AMCCS, so that objecting practitioners are not required to actively facilitate the connection, something many might find unacceptable. However, the distinctions between an "inquiry" and "request," the different responses required of practitioners and the subtle difference between providing contact information and providing reasonable access invite confusion.

College of Licensed Practical Nurses of Alberta

The CCPNR *Code of Ethics* and CCPNR *Standards of Practice* have been adopted by the College of Licensed Practical Nurses of Alberta.[13] They do not address freedom of conscience, so one cannot predict how the College might apply the requirement to "support client choice"[14] when it conflicts with the expectation that LPNs will function within their personal value systems[15] and demonstrate integrity in all interactions.[16]

LPNs are to be aware of "the impact of their own values and beliefs" on their practice.[17] They are instructed to advise supervisors or employers of existing or potential conflicts that make it "difficult to participate in an intervention,"[18] and to "inform the appropriate authority" if they are unable to practise ethically.[19]

This suggests that, like registered nurses, LPNs would be expected to give employers, supervisors and patients advance notice of their views whenever possible, promptly notify them of unanticipated conflicts, and provide care unrelated to morally contested services until relieved. The duty to accommodate the LPN and arrange for a morally contested service would lie with the supervisors or employers, not the objecting LPN.

College of Registered Psychiatric Nurses of Alberta

The CRPNA *Code of Ethics and Standards of Psychiatric Nursing Practice* directs RPNs to apply ethical principles when faced with "situations of ethical distress and dilemmas," to recognize the effect of their own "values, beliefs and experiences" and to act to prevent or resolve conflicts with clients. However, it does not specifically address conflicts of conscience.[20]

Medical Assistance in Dying: Guidelines for Nurses in Alberta (2017)

Guidelines for EAS were published by Alberta's three nursing regulators in 2017. They apply fully to registered nurses, registered psychiatric nurses and licensed practical nurses, and to nurse practitioners to the extent that they are consistent with an EAS standard of practice specific to them (see below).

Registered nurses, registered psychiatric nurses and licensed practical nurses who refuse to participate in euthanasia or assisted suicide are advised to

- assure patients seeking the services they will not be abandoned,
- continue to provide care unrelated to EAS,

- notify their employer so that alternative care arrangements can be made, and
- refer patient to their primary care provider **OR** email the Alberta Health Services Medical Assistance in Dying Care Coordination Service (AMCCS) (emphasis added).[21]

This is a satisfactory arrangement. The employer — not the objecting nurse — is responsible for finding a nurse willing to participate in EAS. Objecting nurses unwilling to directly connect patients to EAS services fulfil their responsibility by notifying the primary care provider of a patient's request. This is a customary practice because nurses cannot provide treatments, referrals or transfers of care independently.

Notes:

1. "Document Library: Standards" (2020) *College and Association of Registered Nurses of Alberta* (website), online: <https://nurses.ab.ca/practice-and-learning/nursing-practice-information/document-library>.

2. The Canadian Nurses Association, *Code of Ethics for Registered Nurses*, Ottawa: CNA, 2017, online: <https://nurses.ab.ca/practice-and-learning/nursing-practice-information/document-library> [*CNA-2017*].

3. *Ibid* at 37.

4. *Ibid* at 35.

5. *Ibid* at 36.

6. *Ibid* at 37.

7. *Ibid.*

8. The College and Association of Registered Nurses of Alberta, *Medical Assistance in Dying: Guidelines for Nurse Practitioners*, Edmonton: CARNA, 2018 at 21, online: <https://nurses.ab.ca/docs/default-source/document-library/guidelines/maid-np-guidelines.pdf?sfvrsn=153120b3_8#page=23>

9. *Order respecting Medical Assistance in Dying Standards of Practice for Nurse Practitioners*, OIC 320/216, (6 December, 2016), online: <https://www.qp.alberta.ca/documents/orders/Orders_in_Council/2016/1216/2016_320.pdf>.

10. Sean Murphy, "Physician freedom of conscience in Alberta", Protection of Conscience Project (14 August, 2020), online: <https://www.consciencelaws.org/archive/pdf/project002-cpsa.pdf>

11. Directive D3-2016 from Sarah Hoffman, Minister of Health to Alberta Health Services (7 June, 2016) online:

<https://abpharmacy.ca/sites/default/files/MAID%20CoordinationService.Directive-Alberta%20Health.pdf>.

12. Alberta Health Services, Medical Assistance in Dying Care Coordination Service (14 July, 2016) online: <https://www.albertahealthservices.ca/assets/info/hp/maid/if-hp-maid-coordination-service.pdf>.

13. The College of Licensed Practical Nurses of Alberta, "Standards of Practice and Code of Ethics" (2020) CLPNA (Website) online: <https://www.clpna.com/governance/standards-code/>.

14. The Canadian Council for Practical Nurse Regulators, *Code of Ethics for Licensed Practical Nurses in Canada* (2013) at 2.1.1, online: <https://www.clpna.com/wp-content/uploads/2013/02/doc_CCPNR_CLPNA_Code_of_Ethics.pdf> [*LPN Code*].

15. *Ibid* at Principal 5.

16. *Ibid* at 5.1.

17. The Canadian Council for Practical Nurse Regulators, *Standards of Practice for Licensed Practical Nurses in Canada* (2013) at 4.2, online: <https://www.clpna.com/wp-content/uploads/2013/02/doc_CCPNR_CLPNA_Standards_of_Practice.pdf>.

18. *LPN Code*, *supra* note 15 at 5.4.

19. *Ibid* at 5.5.

20. The College of Registered Psychiatric Nurses of Alberta, *Code of Ethics and Standards of Psychiatric Nursing Practice* Edmonton: CRPNA, 2013 at 9, online: <https://crpna.ab.ca/CRPNAMember/Library/CRPNAMember/Library/Library.aspx#ste_container_ciStandardsofPractice_5c376f23643243459f28c10701563124>.

21. The College and Association of Registered Nurses of Alberta, the College of Registered Psychiatric Nurses of Alberta, the College of Licensed Practical Nurses of Alberta, *Medical Assistance in Dying: Guidelines for Nurses in Alberta,* Edmonton: 2017 at 12 online: <https://nurses.ab.ca/docs/default-source/document-library/guidelines/medical-assistance-in-dying-guidelines-for-nurses-in-alberta.pdf?sfvrsn=7daaaaf9_8#page=14>