

# House of Representatives

# Supplementary Order Paper

Wednesday, 25 September 2019

## End of Life Choice Bill

*Proposed amendment to SOP No 259*

Harete Hipango, in Committee, to move the following amendment:

*New clause 27B*

After *clause 27A* (page 25), insert:

### **27B Duties in relation to Treaty of Waitangi (te Tiriti o Waitangi)**

- (1) Any organisation that is accorded a duty or responsibility under this Act (a **responsible organisation**) must perform those duties or responsibilities in a manner that recognises and provides a practical commitment to the principles of the Treaty of Waitangi (te Tiriti o Waitangi).
- (2) The performance of duties or responsibilities in accordance with **subsection (1)** includes that a responsible organisation must ensure that—
  - (a) the wellbeing of a person requesting assisted dying services (**tangata tūroro**) must be at the centre of decision making that affects that person requesting assisted dying, and, in particular,—
    - (i) the person's wellbeing, he mana tangata tūroro, should be protected by recognising their whakapapa and the whanaungatanga responsibilities of their family, whānau, hapū, iwi, and family group:
    - (ii) decisions should be made and implemented appropriate to tikanga Māori or the ethnic origins, social attitudes, or customs or spiritual beliefs of the tangata tūr-

- oro whilst accounting for the recognition of their whakapapa—family, whānau, hapū, iwi, and family group:
- (iii) a holistic approach should be taken that sees the person requesting assisted dying as a whole person, which includes, but is not limited to, the person's—
    - (A) whakapapa; and
    - (B) cultural identity; and
    - (C) gender identity; and
    - (D) disability (if any); and
    - (E) age:
  - (iv) endeavours should be made to obtain the support of that person requesting assisted dying for the exercise or proposed exercise, in relation to that person requesting assisted dying, of any duty or responsibility under this Act:
  - (v) decisions about a person with a disability requesting assisted dying—
    - (A) should be made having particular regard to the person's experience of disability and any difficulties or discrimination that may be encountered by the person requesting assisted dying because of that disability; and
    - (B) should support the person's full and effective participation in society:
  - (b) the person's place within their family, whānau, hapū, iwi, and family group should be recognised, and, in particular, it should be recognised that—
    - (i) the primary responsibility for caring for and nurturing the well-being of the person requesting assisted dying lies with their family, whānau, hapū, iwi, and family group:
    - (ii) the effect of any decision on the person's relationship with their family, whānau, hapū, iwi, and family group and their links to whakapapa should be considered:
    - (iii) the sense of belonging, whakapapa, and the whanaungatanga responsibilities of the family, whānau, hapū, iwi, and family group of the person requesting assisted dying should be recognised and respected:
    - (iv) wherever possible, the relationship between the person requesting assisted dying and their family, whānau,

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- hapū, iwi, and family group should be maintained and strengthened:
- (v) wherever possible, a person's family, whānau, hapū, iwi, and family group should participate in decisions, and regard should be had to their views:
  - (vi) endeavours should be made to obtain the support of the kaitiaki, caregivers, welfare guardians, or other persons having the care of the person requesting assisted dying for the exercise or proposed exercise, in relation to that person requesting assisted dying, of any duties or responsibilities under this Act:
- (c) the place of the person requesting assisted dying within their community should be recognised, and, in particular,—
- (i) how a decision affects the stability of that person requesting assisted dying (including the stability of their connections to community and other contacts), and the impact of disruption on this stability should be considered:
  - (ii) networks of, and supports for, that person requesting assisted dying and their family, whānau, hapū, iwi, and family group that are in place before the power is to be exercised should be acknowledged and, where practicable, utilised.
- (3) In addition to the requirements of **subsection (2)**, every responsible organisation must also—
- (a) adopt and deliver policies and practices that have the objective of reducing disparities by setting measurable outcomes for Māori who seek services under this Act:
  - (b) adopt and deliver policies, practices, and services that have regard to tikanga Māori and the values and responsibilities of whanaungatanga related to whānau, hapū, and iwi:
  - (c) develop strategic partnerships with iwi and Māori organisations, including iwi authorities, in order to—
    - (i) provide opportunities to, and invite innovative proposals from, those organisations to improve outcomes for Māori who seek services under this Act:
    - (ii) set expectations and targets to improve outcomes for Māori who come to the attention of the responsible organisation:

- (iii) enable the robust, regular, and genuine exchange of information between the responsible organisation and Māori:
  - (iv) provide, and regularly review, guidance to persons discharging functions under this Act to support cultural competency as a best-practice feature of the responsible organisation.
- (4) One or more iwi or Māori organisations may invite the responsible organisation to enter into a strategic partnership under **subsection (3)(c)**.
- (5) The responsible organisation must report to the public at least once a year on the measures taken in performing its duties and responsibilities in relation to improving outcomes for Māori under this Act.
- (6) A copy of each report under **subsection (5)** must be published on an Internet site maintained by the responsible organisation.

### Explanatory note

This Supplementary Order Paper (SOP) amends SOP No 259 amending the End of Life Choice Bill. It requires that organisations directly and indirectly involved in the provision of assisted dying services do so in a manner consistent with the Treaty of Waitangi (te Tiriti o Waitangi).

Relevant context includes that adverse health outcomes already suffered by Māori are deeply troubling, both in the context of the status of tangata whenua as a partner to the Treaty of Waitangi (te Tiriti o Waitangi) and because of overrepresentation that would be troubling in relation to any ethnic group.

Statistics in relation to various different health outcomes affecting Māori—for example, the incidence of cancer and other terminal illnesses—suggest strongly that Māori will be disproportionately affected by the availability of a regime of euthanasia and assisted suicide. Accordingly, the pressure that may be imposed on any person to seek assisted dying will be disproportionately higher for Māori. The Bill currently makes no recognition of such factors.

This SOP draws upon provisions in other pieces of legislation, including the Oranga Tamariki Act 1989 and the Mental Health (Compulsory Assessment and Treatment) Act 1992. The intention of all these provisions is to attempt to ensure the safety, protection, and inclusion of the vulnerable person with appropriate precautions and safeguards.

More particularly, this SOP:

- highlights the need for practical commitment to the principles of the Treaty of Waitangi (te Tiriti o Waitangi) (at *subclause (1)*):
- provides guidance about what it means for a responsible organisation to ensure that a person's well-being is at the centre of decision making, for example by

recognising whakapapa and whanaungatanga responsibilities (at *subclause (2)*):

- stipulates that responsible organisations must also adopt and deliver certain policies and practices, along with developing strategic partnerships with various Māori organisations that have the objective of reducing disparities by setting measurable outcomes for Māori who seek services under this Act (at *subclause (3)*):
- affirms the right of Māori organisations to invite responsible organisations to enter into strategic partnerships (at *subclause (4)*):
- establishes reporting requirements in relation to improving outcomes for Māori under this legislation (at *subclauses (5) and (6)*).