

House of Representatives

Supplementary Order Paper

Tuesday, 24 September 2019

End of Life Choice Bill

Proposed amendment to SOP No 259

Simeon Brown, in Committee, to move the following amendments:

Clause 26

In clause 26, delete subclauses (5) and (6) (page 24).

Explanatory note

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill. It would remove the proposed immunity from criminal liability for a person who takes (or fails to take) “any action that causes, assists, or facilitates the death of [another]” in accordance with the requirements of the legislation.

The requirement to be granted immunity for causing such wrongful death is merely one of “good faith”—a phrase that is typically regarded by the courts as a low threshold—and “believing on reasonable grounds that [the person killed] wishe[d] to exercise the option of assisted dying” under the legislation.

This cover could well extend to the very abusers most likely to try to pressure or coerce (even if subtly) family members into requesting euthanasia or assisted suicide. It is worth noting in this context that thousands of New Zealanders fall victim to elder abuse each year, as noted at <http://superseniors.msd.govt.nz/elder-abuse/>.

Abusers of vulnerable, terminally ill Kiwis will be able to use a variety of coercive techniques and later claim, if ever investigated, that they were merely acting reasonably and in “good faith” towards a person who surely wanted euthanasia or assisted suicide.

Put simply, the immunity provisions create a place of refuge for abusers that has not previously existed in New Zealand law. The abusers might be coercive doctors, who

will very quickly learn how to navigate their way through the prohibitive provisions in the legislation and make full use of its immunity provisions (again, if ever investigated), or abusive family members as noted above.

While the intention may be simply to enable the well-intentioned to assist the capable to end their lives easily, the effect of the Bill's immunity provisions is actually to remove safeguards that (under current New Zealand law) work to prevent the malevolent from harming the vulnerable.