



The role of doctors in Australian assisted dying law reform

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Influence in law reform: a methodological minefield

“Literature suggests that attributing law reform outcomes to particular events or participants is problematic and that often there are competing accounts and explanations for outcomes.”

Law and Justice Foundation of New South Wales. *By the People. For the People? Community Participation in Law Reform*, 2010 at 19.

“Many recent studies have been designed around the false premise that we can observe the actions of influence and power. There is little reason to organise a project on the chimerical promise of measuring the unmeasurable.”

F Baumgartner and B Leech. *Basic Interests: The Importance of Groups in Politics and in Political Science*, 1998 at 38

Doctors' political role in Australian assisted dying law reform

- Doctors' civic role (social and cultural functions) significantly covered in sociological literature
 - Sociology of the professions:
 - E Freidson. *Professional dominance: The social structure of medical care*, 1974.
 - M Larson. *The Rise of Professionalism: A Sociological Analysis*, 1979.
 - Medical dominance:
 - E Willis. *Medical dominance*, 1989
 - P Starr. *The social transformation of American medicine*, 1982.



Review of AMA Policy on Euthanasia and Physician Assisted Suicide

Member Consultation Report

December 2016

Membership base survey - 31,000 members
(makes up about one-third of Australian
medical practitioners)



Doctors should not be involved in
interventions that have as their primary
purpose the ending of a person's life

3733 responses received –
12% response rate

AMA

49.83% agree
38.06% disagree
12.11% undecided

Interest group - a membership based organisation that engages in activities to seek specific policy goals from the state.

Health policy in the Australian context

”A political bargain between the state and the medical profession.”

S Giaimo. “Recasting the political bargain with the medical profession” in *Governance: An international Journal of Policy and Administration* 8 (1995): 354.

References:

- T Hunter. “Medical politics: Decline in the hegemony of the Australian Medical Association?” (1984) 18(11) *Social science & medicine* 973
- N Milio. "Pressure groups and Australian health policymaking in the 1980s." (1986) 21.2 *Politics* 51-61.
- J Lewis and M Considine. 'Medicine, economics and agenda-setting' (1999) 48(3) (Feb) *Social science & medicine* 393
- J De Voe and S Short. 'A shift in the historical trajectory of medical dominance: The case of Medibank and the Australian doctors' lobby' (2003) 57(2) *Social science & medicine* 343
- R Alford. *Health care politics: Ideological and interest group barriers to reform*. University of Chicago Press, 1977.
- J Lewis. *Health policy and politics: networks, ideas and power*. IP Communications, 2005.

The AMA's role in Australian health policy

“The AMA is a key player in federal politics in Canberra. The range of issues we deal with every day is extensive. The AMA's political influence is significant.”

Dr Michael Gannon, AMA President in C. Johnson. 'President highlights AMA influence' (2017) 29(10) *Australian Medicine*

- P Backhouse, *Medical Knowledge, Medical Power: Doctors and Health Policy in Australia*. PhD University of Adelaide, 1994.
- 4 roles for doctors: institutional player, interest group, keeper of knowledge and expert practitioner: J Lewis. *Health policy and politics: networks, ideas and power*. 2005.

“The range and type of issues and alternatives which are considered [or not considered] by policymakers will reflect the interests and concerns of legitimate political forces.”

R Cobb and C Elder. "The politics of agenda-building: An alternative perspective for modern democratic theory." *The Journal of Politics* 33.4 (1971): 892-915.

AMA Position Statement on Euthanasia and Physician Assisted Suicide 2016

Clause 3.4:

If governments decide that laws should be changed to allow for the practice of euthanasia and/ or physician assisted suicide, the medical profession must be involved in the development of relevant legislation, regulation and guidelines.”



AMA

Primary marker of medical dominance of health policy is the presence of organised medical interest groups and some form of medical peer review mechanism: Peter Backhouse. *“Medical Knowledge, Medical Power.”* 1994

AMA's role in Australian assisted dying law reform

Alison Plumb, *Euthanasia Politics in the Australian State and Territorial Parliaments* (PhD Thesis, ANU, 2014)

- the attribution of anti-euthanasia comments to members of the AMA executive was a key reason why assisted dying legislative bills failed in two Australian states in 2012-13.
- Negative comments by the AMA were cited by South Australian legislators as the third most frequent justification for their opposition to assisted dying bills, behind religious grounds, and slippery slope concerns.
- Cf. *Rights of the Terminally Ill Act 1995* (NT)
 - perception of the medical professions' opposition to assisted dying had not yet become commonplace
 - Politicians' willingness to see out advice from doctors not aligned with AMA identified as one reason for successful passage of legislation

AMA's current approach: see Australian Medical Association (South Australia) Inc, *Submission to South Australian Parliament, 1 Nov 2016*
<https://ama.com.au/sites/default/files/documents/0723%20JF%20MPs%201-01f.pdf>

AMA's role in Australian assisted dying law reform

[Doctors support laws Medical fraternity divided by euthanasia Bill](#) Hobart Mercury, 9 October 2013, Matt Smith, TASMANIAN doctors have come out in defence of new voluntary euthanasia laws. Australian Medical Association Tasmanian president John Davis has described the new laws as state-sanctioned murder.

[Doctors slam AMA position on euthanasia as 'out of touch'](#) The Age, Melbourne, 24 November 2016, Julia Medew PRO-EUTHANASIA doctors have slammed the Australian Medical Association's decision not to back assisted death laws, saying the powerful group is out of touch with the community.

“The AMA cannot be written off. It is still a very powerful lobbyist... Crossbenchers still listen to the AMA, which gives it a position of influence. It is well resourced and staffed with people who generally know the lobbying ropes.”

[Patient advocate or doctors' union? How the AMA flexes its political muscle](#)

The Conversation, 9 June 2016, Stephen Duckett

“The AMA is more than just one of many lobby groups agitating in Canberra for a limited range of interests. It [is] now an accepted part of planning and helping develop the policies and programs that would deal with health issues and defend and advance the society's health.”

D Nagle, 'More than just a union: a history of the AMA' (2012)

https://ama.com.au/sites/default/files/documents/a_history_of_the_ama.pdf

Doctors' role in Australian assisted dying law reform



Doctor's participation in assisted dying law reform

“Doctors have a uniquely important perspective that makes their views particularly valuable to policymakers, even if their views are not always neutral or accurate. Health lawyers and policymakers cannot always see the same shadows of the law that are visible to health care providers, and sometimes those shadows have penumbras and emanations that are not visible to those outside of a narrow medical practice.”

R Schwartz, 'End-of-Life Care: Doctors' Complaints and Legal Restraints' (2008) 53. *Louis University Law Journal* 1155