



VESV

Voluntary Euthanasia Society of Victoria Inc.

Report

Member of the World Federation of Right to Die Societies

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"The current two-tier system...a chosen death and an end to pain outside the law for those with connections, and strong refusals for other people...is one of the greatest scandals of contemporary medical practice."
Prof. R Dworkin et al (T Nagel, R Nozick, J Rawls, T Scanlon, J Thomson)
The Philosophers Brief, 1997

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The President's Message

I was extremely disappointed and saddened to hear the distressing story of one of our members. Her daughter rang the VESV office for assistance and I took the counseling call. The member was 82 and had recently developed a severe infection that had not responded to treatment, and she was now in intensive care supported by artificial ventilation. Her daughters had been told that she may have suffered from encephalitis (inflammation of the brain) and that she had had a severe stroke.

She had been in intensive care for nine days without improvement. The doctors were now wanting to wean her off the ventilator, but said that if this was not successful they would need to perform a tracheostomy (an operation to place a tube through the throat into the windpipe.)

Her daughters were both clearly of the opinion that, in these circumstances, their mother would not want such invasive treatment in order to be kept alive with a stroke in a nursing home, her likely outcome if she survived.

Unfortunately, their mother had not appointed an agent (medical enduring power of attorney) and had no advance directive. Her husband, not the father of the daughters, wanted to hang on and allow further treatment. The situation was causing extreme grief to all concerned.

Had the mother followed our advice and appointed an agent and completed our advance directive, then one of the daughters as agent would have been able to refuse the performance of the tracheostomy and all other treatment and requested maximum relief of suffering. Although I am not in possession of all the medical evidence, my experience tells me that the chance of this mother recovering to her former state of rational and independent living is extremely slim and that further treatment is futile. However, in the absence of a clear directive not to do so, the doctors are obliged to continue treatment.

This story is so sad because this distress could so easily have been avoided. I would urge all members to appoint an agent and complete an advance directive. An agent is someone you trust to make medical decisions for you if you are incompetent to do so for yourself, while an advance directive is a document that sets out your wishes to assist your agent and your doctors in reaching such decisions.

An advance directive can be in a general (generic) form designed to cover a wide variety of illnesses, and this generic form may be completed while a person has no specific illness. On the other hand, an advance directive can be specific to a particular illness (such as cancer or dementia) and completed when the person has knowledge that such an illness has been diagnosed.

The specific directive can be more effective as it can focus on the specific problems that may arise in the particular illness. All advance directives should be updated regularly (at least every five years), but particularly so if a new, serious illness is diagnosed. The advance directive should be discussed with your doctor(s) and copies should be in all your medical records.

Above all, good communication with your agent and family about your wishes is essential to having any chance of achieving a peaceful and dignified death.

VESV workshops explain all these matters in detail. Information regarding workshops to be conducted in September and October can be found on page three.

A SMALL BUT SIGNIFICANT VICTORY

In 2001, VESV began considering the conditions necessary for a test case surrounding the question of whether a person, merely being present when another committed suicide, was liable to be charged with assisting that suicide.

Because it is generally considered to be very risky to be so present, many people who commit rational suicide in order to end their intolerable suffering from terminal or hopeless illness must die alone.

VESV considers this to be outrageous, and to add an unnecessary burden of shame, guilt and loneliness to an already tragic situation.

The law on assisting suicide is vague and unclear, using the words 'incite' and 'aids or abets' to define

the crime. Whereas the law allows the use of reasonable force to prevent a suicide, a person has no duty of care to prevent a suicide, except in the case of a doctor – but even then, that may not be so if the decision to suicide were considered rational.

Thus, not preventing a suicide is not the same as assisting one. It is uncertain whether a loved one, being merely present out of love, to provide comfort, and to say goodbye – all sound humanitarian reasons – would be guilty of a crime.

Logic and humanity strongly suggest that this would not be so, but fear, and the failure of the authorities to clarify this point, has meant that most rational suicides do die alone.

Thus, VESV was delighted when, after earlier discussions with Philip Nitschke, he arranged for 21 people to be present when Nancy Crick took her life with a fatal dose of barbiturates, in May, 2002. It has taken the authorities in Queensland over 2 years to finally decide not to charge any of those present.

It was gratifying to hear the

Queensland Police Commissioner say that "Being present when someone takes their own life does not in itself constitute an offence."

The decision not to charge is not the same as a court decision of not guilty to charges in creating a precedent.

Nevertheless, if the person or persons present have done nothing other than be present, and there is no witness to say otherwise, there cannot be any credible evidence for a charge.

The failure to charge any of the 21 emphasises the already obvious point that, for a charge to be successful, credible evidence must be available. If a relative or friend is present and can truthfully say that they did nothing physically to assist, then there is no contrary evidence available. The presence of numbers to provide corroboration of what occurred is probably significant.

It now seems clear that friends and loved ones may be present when a rational suicide occurs, provided they do not provide any physical or practical assistance.

A small but significant victory. Any member who may find themselves placed in such a situation can seek advice from VESV.

Resignation Of Lindy Boyd

It was with extreme regret that VESV accepted the resignation of Lindy Boyd as Executive Officer. Lindy had been with VESV since 1995, initially as administrative assistant, then as office manager, and finally, as Executive Officer.

She had grown over this time in knowledge, efficiency and skill, and she assumed a central place of importance in VESV affairs.

She was a welcome voice to many members over the years, and dispensed valuable advice. She organized a splendid band of volunteers to assist with our activities, and without which we would be

less potent.

She was central to many of our big ventures over the years, including our electoral campaigns in Menzies and Prahran, our campaigns for political lobbying, our Morgan poll and the 'peaceful presence' at Parliament House.

Her qualities were many, none more so than her enthusiasm, her efficiency and reliability, her commitment and dedication, her wisdom and knowledge, and her honesty and integrity. She will be a hard act to follow.

A number of Lindy's friends at VESV gathered at Betty Teltscher's

home on July 9 to thank her for her work on our (and the community's) behalf, and to wish her well.

I AM PLEASED TO ANNOUNCE that Rowena Moore has been appointed as our new office manager, and commenced duty on 26 July.

Rowena has very wide experience, especially in office management in the not-for-profit sector, and a commitment to the ethos of VESV.

Please give her all the support you can during the difficult period following Lindy's resignation.

'MERCY KILLINGS' CONTINUE... with distressing regularity

'Mercy killings' have been a fact of life for many years, but seem to be occurring with increasing frequency in recent years, with four notable events in the last six months.

In May, John Godfrey was convicted in Tasmania of assisting his 88 year old mother's suicide (after she had made two previous unsuccessful attempts). He was given a 12 month's suspended sentence.

The judge, who recognized that his mother's decision was rational and that Godfrey had no influence in the decision, said that to dismiss the crime without sanction would diminish the sanctity of life.

He also said that the law seemed to discriminate against people who wanted to end their lives but were physically incapable of doing so.

In July it was reported that Fred Thompson (NSW) will face court charged with aiding and abetting the suicide of his wife. He had given her sedatives and smothered her with a pillow.

Also in July, it was reported that Colin Wright, an 87

year old Victorian, was to be charged with aiding and abetting his wife's suicide.

She suffered from dementia and a stroke, and had been forced into a nursing home.

It is alleged that Wright poisoned her while she was on a home visit.

Earlier this year, Ross Anderson published his book "The quality of Mercy" in which he clearly details (like Lesley Martin) how he assisted his wife's suicide. She was dying miserably from pancreatic cancer. He has been interviewed by the police, but two years later, nothing has happened.

Certain observations can be made.

First, that although people continue to be charged with crimes for either causing or assisting in the death of seriously ill loved ones, usually after admitting to such action, it is exceptional in Australia that any punishment follows.

The judge usually pontificates about 'a deterrent', 'sanctity of life' and 'respect for the law', but ultimately delivers no penalty – the judicial sentence is essentially a judgment on the law rather than the individual who is before the court.

Second, it seems clear that a charge of murder is never laid, even when there is an action and an intention to cause death. If there is a request for assistance, the lesser charge of "assisting suicide" is laid. The whole question of what actually constitutes 'assisting suicide' is shrouded in mystery.

Third, there are clearly circumstances where, despite the evidence, charges are not laid.

Finally, it is clear that these unfortunate cases (no one seems to be in argument about this) would not occur if the people involved were able to approach their doctor for advice and assistance to ensure that rational suicide could occur in a climate of security, and without futile criminal charges.

Workshops

VESV is conducting two Workshops, one on September 14th and other on October 12th.

The venue for both will be the Morrow Room, Northbrook House, 1257 High Street Malvern, behind the old library.

Starting time will be 10.00am and each workshop will run for around two hours.

Topics covered will include:

- Medical Treatment Act
 - Advance Directives
 - Information on Palliative Care
 - Discussion of the level of assistance that doctors provide to patients
- Please ring the VESV office on (03) 9521 3297 to book

Donation: \$20 or \$10 Concession

Guest Speakers

VESV can provide speakers on matters relating to euthanasia.

If you belong to a group or club, do ask if members would be interested in a presentation/discussion on the issue and if so, ring the

VESV office on
(03) 9521 3297

Equipment Needed

VESV needs:

- **One small (or card) table**
- **One wall clock**
- **One typist/secretary chair (with wheels)**
- **A filing cabinet**

If you have any of these items and they're surplus to your needs, the Society would appreciate the use of them.

Ring the office on
(03) 9521 3297

from **NEAR** and far

UNITED KINGDOM

The UK High Court delivered an important decision recently when it determined that a patient who was competent, or who had left instructions, could insist that doctors continue to provide artificial nutrition and hydration.

This is the 'flipside' of refusal of treatment, but clearly also upholds the principle of patient autonomy. The patient wanted to be sure that he would be maintained on tube feeding while he had any cognitive faculty. There was an assumption that doctors could withdraw treatment that they saw as futile.

The judge said that this failed to recognize that "it is for the patient, if competent, to determine what is in his own best interests", and that doctors had "no special expertise on the many non-medical matters which go to form the basis of any decision as to what is in the patient's best interests."

The right to respect for a person's private and family life under the Human Rights Convention covered "such matters as how one chooses to pass the closing days and moments of one's life and how to manage one's death." **It was for "the competent patient, and not his doctor, to decide what treatment should or should not be given in order to achieve what the patient believes conduces to his dignity and in order to avoid what the patient would find distressing."**

Prior to this ruling, it was accepted that a patient could refuse any treatment but had no right to demand any treatment.

OREGON

The 9th US Circuit Court of Appeals has upheld the appeal of Oregon to prevent the US Attorney-General prosecuting doctors who assisted patients to suicide.

The Oregon law stands firm, allowing Oregon to be a continuing testimony to the safety of such legislation.

ISRAEL

An Israeli judge, according to the Jerusalem Post, ruled to 'allow an act of euthanasia and disconnect a man from life support even though his family did not have his written consent.'

While many would not consider such an action 'euthanasia', it is a significant advance on previous rulings in Israel.

CHINA

In March, at the 10th National People's Congress, Huang Zhong-cheng urged the congress to implement a pilot scheme for practicing euthanasia. Delegates have been so urging since 1992.

China defines euthanasia as "to end the life of a terminal patient in a humanitarian way, for the request of the relatives of the patient or the patient who is suffering severely both mentally and physically, agreed by the physician."

FRANCE

The French government is to change its laws to allow terminally ill patients to opt for death over further treatment, but will not legalise euthanasia.

Changes to law in neighbouring Belgium, the Netherlands and Switzerland will no doubt be pressuring the French.

GERMANY

Official statistics in Belgium show 259 cases of voluntary euthanasia in the 15 months since this became legal.

It is believed the figure at the end of June is 400. Medical experts seemed to agree that the figures showed that the law had been a success.

The incidence of voluntary euthanasia had not increased with the passage of the legislation.

AUSTRALIA

Germany's justice minister wants to make it easier for terminally ill patients to refuse life-extending treatments. He intends to legislate for 'living wills'.

A bid by the Australian Democrats to legalise voluntary euthanasia has been defeated in the South Australian Parliament. Democrat MP Sandra Kanck introduced the "Dignity in Dying" bill which was defeated by 13 votes to eight.

Democrat Senator Lyn Alison intends to introduce a private members bill into the Senate to overturn the Kevin Andrews act which destroyed the Northern Territory Voluntary Euthanasia law.

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