



Member of the World Federation of Right to Die Societies

PATRONS: Sir John Holland  
Sir Peter Derham  
Mr Julian Burnside QC

PRESIDENT: Dr Rodney Syme  
SECRETARY: Ms Chris Momot  
TREASURER: Ms Joanna O'Brien

70 Greville Street  
PO Box 2056  
PRAHRAN, Victoria, 3181  
Australia

Telephone:  
(03) 9521 3297  
Fax: (03) 9521 3302  
Email: vesv@vesv.org.au

Internet:  
www.vesv.org.au

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*"As the law stands, only the good sense of prosecuting authorities and juries stands between compassionate and courageous medical practitioners and convictions for murder."*  
Sir Richard McGarvie, retired Victorian Supreme Court Justice, ex Governor of Victoria

## REFUSAL OF TREATMENT CERTIFICATES

Whilst a competent person can verbally refuse any treatment (except palliative care), a Refusal of Treatment Certificate (RTC) is a formal document, validated by the Medical Treatment Act (MTA), that sets in concrete your decision to refuse treatment.

This is so even if that refusal will result in your death, but it only applies to a 'current condition'. It differs from an advance directive, which can give directions covering a wide range of conditions that the person probably does not have. It is directed at 'future conditions'.

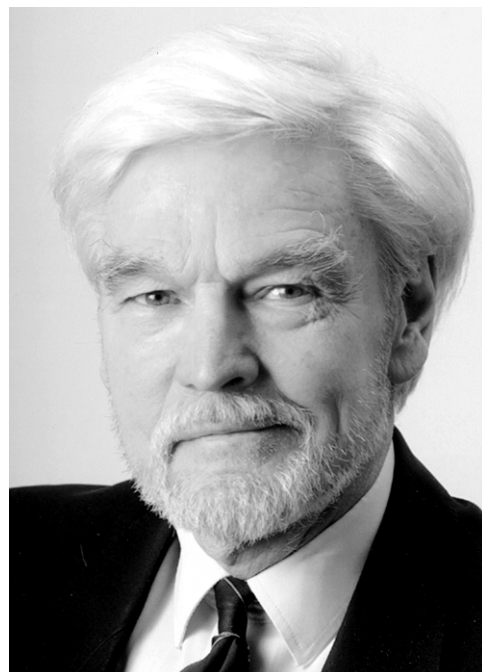
The term a 'current condition' is not defined in the Act. Obviously, if you have cancer that is a current condition, and you can refuse any treatment for that cancer, and the refusal continues if you become incompetent. It is accepted by some that the Act allows the refusal of treatment for a condition that is caused (in the future) by 'a current condition'.

For example, a person with cancer can refuse resuscitation in the event that they should stop breathing (NFR order, or not for resuscitation). These orders are widely accepted in medical practice, but are obviously a directive for a condition that has not yet happened (i.e. a 'future condition'), but is related to the 'current condition'. This appears to be the legal opinion of Russell Kennedy Solicitors, advising Palliative Care Victoria.

Nevertheless, the extent of the meaning of a 'current condition' remains vague and uncertain. Does it extend to a complication of a current condition? Does it allow someone with hypertension and /or heart disease to refuse active treatment for a massive stroke if that should occur? Does it allow a person with severe respiratory disease to refuse antibiotic treatment for a chest infection complicating their chronic chest condition, before it occurs?

VESV is currently campaigning for amendments to the MTA. Among other things, we would like to test the limits of a 'current condition'.

It should be clearly understood that it is not sensible to refuse life-saving treatment unless one is fully informed, and are clearly and absolutely ready to die because of intolerable suffering or hopeless circumstances. It should also be understood that a person refusing such treatment must be given palliative care.



## The President's Message

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The MTA states that Parliament believes it is desirable to ensure that "dying patients receive maximum relief from pain and suffering". Refusal of treatment must not be accompanied by relievable suffering.

VESV would like to hear from any member who is in a position of gross ill health, and would like to consider completing an RTC, to prevent unwanted treatment or prolongation of a life of suffering.

We will advise and guide you through the process, and hope that, as a result, greater clarity regarding the law can also be achieved.



## VESV WORKSHOPS

VESV runs regular workshops on the subject "How to choose and achieve a dignified death".

These run for about two hours, and deal in depth with the Medical Treatment Act, refusal of treatment, appointing an agent, advance directives, palliative care, pain relief and sedation, and medical practice and the law.

They are limited to groups of about twenty to allow dialogue and interaction. They emphasise the importance in end of life situations of preparation, understanding and communication. Many members have attended these workshops and both enjoyed them and learnt much.

If you would like to attend a workshop, ring Rowena at the office for details. Friends who may have an interest or need advice are welcome. It is an excellent way of developing membership.

There is a charge (\$20 with \$10 concession for pensioners) to cover costs.

## News flash! GOOD news ...for a change!

A Committee member was recently admitted to Cabrini Hospital for a day procedure. On the Registration Form were all the usual questions – do you have blood pressure, have you had a stroke and so on.

It was the Consent for Treatment Form which was particularly interesting. On the same page was the question, Have you appointed an agent or completed a Refusal of Treatment Certificate under the Medical Treatment Act 1988? If yes, specify and please bring a copy of the form(s) with you to hospital. On inquiry it was found that this is a recent initiative of the hospital.

Not so good news is that the same committee member is going to Vimy House for a serious procedure and the admission form does not ask the patient if they have appointed an agent, let alone completed a Refusal of Treatment Certificate.

Let us hope that the Department of Health and Community Services are checking with hospitals and relevant care institutions to find out if they are complying with the requirements of the Medical Treatment Act 1988.

If you are going into hospital for any reason, ask if they record details of agents and advance directives. If not, why not and take your own Medical Enduring Power of Attorney and Advance Directive and demand that they be included in your file?

Let us hear from members about their experiences. Perhaps we can publish a list of those hospitals which are conforming to their legal requirements.



VESV members (L to R) Mary Walsh, Chorale Aasvogel and Noel Rogers gathered at Flinders Street Station on August 18th to peacefully demonstrate their support for Choice in Dignity in Dying

### Notice of 2005 Annual General Meeting

The Annual General Meeting of the  
Voluntary Euthanasia Society of Victoria Inc  
is to be held at the

**Downtowner on Lygon  
66 Lygon Street Carlton**

on

**Sunday 20th February 2005 at 2pm**

Chairperson: Dr Rodney Syme, VESV President

Guest Speaker: To be notified

\*Please arrive at 1.45 for a prompt 2 pm start.

### Thank you!

...to the readers who responded to the last newsletter's appeal for loan/donation of the table, clock, typist chair and filing cabinet. We now have all the items we need. Rowena.

## Reflections on the death of Elisabeth Kubler-Ross

**T**he death of Elisabeth Kubler-Ross took me back to the publication of her book *On Death and Dying* in 1969. Her life work was concerned with the needs of the dying and she was involved in hospice care and the need for choice for the dying. But her book was also designed to help the living face the idea of death.

She described five emotional stages of dying ; denial, anger, bargaining, grief and finally acceptance. Although not everyone necessarily experienced every stage, reaching 'acceptance' is essential to achieving a good death.

An account of her life and death from [www.azcentral.com](http://www.azcentral.com)

filled a gap because I had not followed her career.

For someone who was described as "feisty" and who had worked all those years on behalf of the sick and dying it was hard to spend her last years with illness and frailty, finally needing care herself. Even then she kept writing in partnership with David Kessler. "Life Lessons", published in 2000, is about the valuable insights we can gain from experiences which have made us face the reality of death.

The news letter which followed her death brought several points to my mind.

First, that we still are often reluctant to face and talk about our own deaths and neglect dealing with wills, medical powers of attorney and advance directives.

"Life Lessons" describes how facing major crises can make us realise that there is "someone we were meant to be" and we can find who we really are before it is too late.

It was hard for Kubler-Ross to face physical dependence and she called God "a damned procrastinator". I was glad this had been recorded because it is often denied or not realised that we can reach a stage of life when death is welcome and we are not depressed. This is used as an argument for denying us the choice of dying with dignity when we are ready.

Kubler-Ross had supported dying with dignity and had been involved with the hospice movement for years. Her last few days were in pain and she was asked whether she was "ready to transition" and chose not. The family thought she wanted to see her daughter a last time.

It is an important part about the provision of choice for us all in the face of mental or physical pain that having the option to end it can often make it possible to bear it.

Finally, the report describes how she died with family and friends around her.

This has been one of the issues in Australia in the fight for choice and we can remember Nancy Crick who had friends who took risks to be sure she did not die alone.

## Pope strengthens Catholic position against "Euthanasia by Omission"

At a conference entitled *Life-Sustaining Treatments and Vegetative State-Scientific Advances and Ethical Dilemmas* held in Rome in March, Pope John Paul II made a clear and explicit statement on the obligation of medical personnel and carers to provide food and water for patients in a 'persistent vegetative state'.

The Pope's speech has strengthened the official Catholic position against 'euthanasia by omission', and the range of speakers from many countries uniformly upheld the dignity of every human person...no matter how disabled...and affirmed that the withholding of nutrition and hydration with the intention of causing death is equivalent to euthanasia.

The Church's teaching authority has now strengthened its opposition to the withdrawal of feeding tubes for PVS patients, whereas prior to the March conference there had been some divergence of opinion among Catholic theologians.

Pope John Paul II's dictum dealt with each aspect of the theory that opposes assisted feeding and emphasised the belief that no action that 'aims at anticipating the person's death' may be taken.

The conference was co-sponsored by the Pontifical Academy for Life and the International Federation of Catholic Medical Associations so naturally reflected Catholic moral teaching, although speakers included world-renowned medical experts representing a variety of religions and moral positions.

There was general consensus that there is no clear agreement as to what the 'persistent vegetative state' is, and this in itself made it easier for the Pope to declare that no action may be taken that would anticipate a person's death.

Right To Life Australia President Margaret Tighe spoke about the BWV case and a St. Vincent's Hospital registrar, Dr. Matthew Piercy, talked of the dangers of allowing advance health directives which he spoke of as a questionnaire 'skewed towards denial or withholding of treatment' and which are now available at many hospitals. This viewpoint clearly opposes patient autonomy, the cornerstone of VESV's philosophy.

VESV is committed to the patient's 'right to choose' and to the introduction of legislation which would enable this. A Medical Enduring Power of Attorney and Advance Directives are currently the best means of retaining autonomy over end-of-life-decisions, and it is hoped that all VESV Members have completed these and update them periodically.

At the same time, we need to be aware of the intensity with which others in our society are opposed to these ideas, the degree to which they are mobilised and the extent to which they will go to block the introduction of legislation allowing individual autonomy.

# Decisions that should be mine!

I am 86 years old and my husband died five years ago, aged 80.

Although he was seriously ill for his last year of life, his initial collapse, caused by an aneurism in his brain, was quite sudden.

During his illness he had to be fed through a tube, was paralysed from the waist down and had a drastically reduced ability to communicate, with infrequent glimpses of reality.

After discharge from hospital he had to go to a nursing home as he was too incapacitated to be cared for at home.

I know from the many conversations we had throughout our long marriage that he would have hated the loss of dignity, the inability to control his own life and the dependency he had to endure.

Yet when he contracted an infection and I and my adult children asked that no antibiotics be given the hospital refused this request.

I believe that my husband's last few months were demeaning and pointless, particularly as he had led a full life. I have a genuine fear of being forced to endure a similar situation when I am dying.

I believe that the place where I die and the people who care for me should be decided by the circumstances of my illness (for example, it was not possible for my husband to be cared for at home because of his incapacity). However, wherever and whenever possible the decision should be mine or, if I am unable to make it, those of my family, who know my wishes.

If the dying person is to have the maximum choice, there must be more services provided, such as on-call home nursing and effective symptom-relief which can be moni-

tored by the person themselves. I am fortunate to be active and independent at present and would want the choice of staying at home for as long as I can if I become terminally ill, although I do not want to be a burden on my family.

But I must emphasise that I see no point in a protracted dying process. At 86 years of age I have seen other loved ones and friends die a protracted death and, as a consequence, believe strongly in law reform to permit voluntary euthanasia and assisted suicide under strict guidelines.

Personally, I would go further and say I believe older people (perhaps 80 and over) should have access to a painless and dignified death even though they are *not* terminally ill.

I do *not* want money, mine or the government's, wasted on keeping me alive when death is inevitable. Neither do I want my family to remember me as a helpless shell of myself, possibly with dementia.

I have done all I can legally, in accordance with the Victorian Medical Treatment Act, and have followed the advice of the Voluntary Euthanasia Society of Victoria about ensuring that my family know all my wishes regarding medical treatment. But I know many people are not aware of their legal options and I believe that the Victorian government should publicise the Medical Treatment Act widely and provide help for people to make an effec-

tive Enduring Power of Attorney (Medical Treatment) at any stage of life.

After all, we are encouraged to make a will regarding our possessions; surely it is far more important to make sure our wishes about our health are carried out?

But ensuring my legal rights under this Act does *not* bring me peace of mind. It will only be useful if I contract an illness whereby refusing treatment will hasten death. What good will it do me if I have a stroke that disables but does not kill me, particularly if some zealous health

professional decides I must be given antibiotics if I get an infection, as was done with my husband?

As you can see, I feel very, very strongly about my dying.

We live in a democracy where others cannot force their views on me in many important areas yet representatives of churches and governments still

impose their beliefs on me when it comes to matters of how, when and where I die.

I don't ask for legal changes that will force *them* to act against their will, so why can't I have the same rights?

Name and address supplied.

*Extracts from a letter received by Dr Sarah Russell in response to her article on a research project on dying with dignity and a request for thoughts on the topic.*

“...ensuring my legal rights under this Act does *not* bring me peace of mind. It will only be useful if I contract an illness whereby refusing treatment will hasten death....”

# A TRIBUTE TO NOEL SANDERSON

I will not forget the day I met Noel Sanderson. He had visited the VESV office in Prahran shortly after his father had died in the Alfred Hospital, and he was very upset at the way things had been managed, in particular, the lack of communication between the doctors, his father and himself.

Noel is one of those rare people who acts on his feelings and he determined to try and change the way people are respected at the end of life.

He joined VESV, and his enthusiasm and energy soon saw him join the committee as secretary.

Noel had been very active in the Labor Party and his knowledge of the political system and his connections were invaluable to VESV as we built up a political strategy. Noel provided access to staffers and advisors, to Members of Parliament, and to policy committee members.

Noel organized our silent protests on the steps of Parliament House, and undertook a significant lobbying role on behalf of VESV.

His energy and enthusiasm were astonishing, and he kept the office buzzing with ideas and possibilities. Ultimately the need for secrecy in political matters and the need for openness within the VESV committee

created tensions that caused Noel to resign.

VESV owes Noel an enormous debt for his time and effort on our behalf. We miss him and wish him well in his new endeavours.

## If you are present at a suicide...

In the last newsletter, I described the outcome of "The Nancy Crick 21", people who were present when Nancy took her life.

The Queensland Police Commissioner decided not to prosecute, and indicated that "being present when someone takes their own life does not in itself constitute an offence". It requires someone to 'aid or abet' for charges to be laid (exactly what aiding and abetting means in practical terms is uncertain).

Despite this outcome, people still need to behave carefully in such circumstances. It is possible that VESV members may help a loved one or friend to a peaceful and dignified death.

It is essential to realize that a person can refuse to say anything to police except to give your name. VESV strongly advises anyone who is even remotely connected to a rational suicide to say absolutely nothing to the authorities.

If you were the only person present, then there is no evidence as to what happened, unless you provide it.

The police may have suspicions, but without evidence, they have no case. Remember, you are not obliged to answer any question.

## Education & Membership

One of VESV's major roles is public education about medically assisted dying.

We have done this over the years by providing speakers to many organizations and institutions.

It is also through such opportunities that VESV can expand its membership, a constant necessity

We have spoken to groups such as Rotary groups, Lions clubs, RSL branches, U3A, and Probus.

We are advised that even bowls clubs and other social groups are often interested in speakers.

If you belong to such a group, see if you can interest their committee in the idea of a talk on end of life matters.



from **NEAR** and far

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

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

**CHINA** At the 10th National People's Congress in March, Huang Zhongcheng 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 terminal-ly 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.

**BELGIUM** Official statistics in Belgium show 259 cases of voluntary euthanasia in the 15 months since it became legal. It is believed that at the end of June, the figure is 400.

Medical experts seemed to agree that the figures showed the law had been a success. The incidence of voluntary euthanasia had not increased with the passage of the legislation.

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## USA

Upholding a 1994 law allowing certain people to discontinue life support for someone permanently unconscious, the Kentucky Supreme Court has ruled that a relative or guardian may make the decision, even in the absence of a living will or other expression of the patient's wishes.

People authorised to make such a decision are:

- A court-appointed guardian, if medical decisions are part of the scope of the guardianship
- The attorney named in a durable power of attorney, if it specifically authorises medical decisions
- The patient's spouse or adult child(ren)
- The patient's parents
- The patient's nearest living relative or relatives

This is the first ruling on the issue since the Court's 1993 upholding of a comatose woman's right to die.

•A SURVEY OF 900 members of the Society of Gynecologic Oncologists showed that quality of life and care for terminally ill patients is often limited by the specific opinions and treatment recommendations offered by their doctors.

Since they treat patients both surgically and medically, this is a unique group and their influence regarding quality of life options has a significant influence on patient decisions regarding last days with their families or hope from further treatments which may or may not be futile.

"Straight talk" and "compassion" were seen as key aspects of doctors' conversations with patients but even so, 8% of the surveyed group said they would avoid telling a patient a condition was terminal while only 75% would disclose that a patient's cervical cancer was incurable before initiating treatment.

Dr Lois Ramondetta, author of the published study commented, "It is important to recognise opportunities to help physicians to speak about their concerns and to improve conversations involving breaking bad news."

•IN DECEMBER THIS YEAR, Arizona will become the fourth state in the US to offer people the option of posting their living will on a web site. Those

who use the facility will carry a registry card which, in the event of hospitalisation in a condition in which they cannot speak for themselves, will direct carers online, where they will see who is appointed medical power of attorney and what kind of care they do or don't want.

Families, doctors and hospitals will have access to the documents.

•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.

## UK

In the past two years, the Swiss assisted suicide charity "Dignitas" has helped 22 Britons to die. Dignitas was founded in 1988 but first heard of in the UK when it helped motor neurone sufferer Reg Crew to die in January last year.

Since the publicity surrounding this case there has been a sharp increase in the number of British people travelling to Zurich to die.

Dignitas has helped a total of 304 people to die; around two thirds of them from outside Switzerland.

•THE UK HIGH COURT delivered an important decision recently when it determined that a patient who was competent, or had left instructions, could insist that doctors continue to provide artificial nutrition and hydration. This is the flip-side of refusal of treatment, but clearly also upholds the principle of patient autonomy.

The patient wanted to be sure 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.

## SWITZERLAND

Swiss charity "Dignitas" gives people in unbearable pain and with incurable disease the chance to die at a time of their choosing and in pleasant surroundings on the shores of Lake Zurich.

There is a small fee for membership and clients must pay for doctor's time and the drugs. Clinic staff are medically trained although the nurses are unpaid volunteers.

## GERMANY

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'.

## Positions vacant

The VESV committee has agreed to set up four sub-committees to deal with specific aspects of administration. It is envisaged that they will meet in an ad-hoc, or as needed basis, to deal with issues in their area. They will then make recommendations to the full committee. We believe this will streamline the business of the committee.

It is also an opportunity for VESV members with particular skills to become involved in areas where their skills would be very helpful.

The sub-committees are Finance Working Group, Staffing and Administration Group, Strategy Working Group, and Public relations and Membership Group. We would welcome enquiries from members who feel they would like to contribute some time to these tasks, without being fully committed to the formal committee. We would also welcome enquiry from any one who would like to join our writers group (to respond to items through Letters to the Editor) or newsletter correspondents group. Please ring the office and speak to Rowena.