



End-of-Life Choice

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Member of the World Federation of Right to Die Societies

MAKE PHYSICIAN ASSISTED DYING AN ELECTION ISSUE

New Zealand entered election year still awaiting a sign that politicians were listening to the vast majority of voters who want a law change allowing the terminally ill and suffering to end their lives with dignity.

Serious questions about an unprecedented intervention by the police – who intimidated elderly supporters of assisted dying in Wellington in an extraordinary operation last year – remained unanswered as a Parliamentary inquiry into the issue limped into its second year. **(See What the Police Did, Page 2)**

Inundated with nearly 22,000 written submissions and 1800 applications to appear in person, it was always a challenge for the Health Select Committee to report in time to allow proper consideration by Parliament before this year's election.

Anyway, before resigning, the former prime minister John Key ruled out his government changing the law regardless of what the committee decided. His successor, Bill English, is a Catholic – like the committee chair – and his wife personally went before the committee to oppose end-of-life choice.

The opposition Labour Party is no more disposed to promote the issue, joining National in a shoulder-shrugging assurance that its MPs would have a conscience vote if it came before Parliament.

A new survey by University of Auckland researchers published in the *NZ Medical Journal* in January concluded: "There is strong public support for euthanasia when people are asked whether doctors should be allowed by law to end the life of a patient with a painful incurable disease upon their request."

It found 66% in favour of a law change (up from 62.9% in a Horizon Research survey in 2012), 21.7 per cent neutral or unsure and just 12.3 per cent opposed.

This showed support for medically assisted dying growing in line with the international trend as Australia, Canada and the United States follow enlightened European nations **(see News from Around the World, Page 6)** while the percentage opposed has not changed in four years.

It is now nearly 14 years since the last bid to change the law was defeated in Parliament by just two votes.

VESNZ wonders why our politicians are too scared of the minority to act on the wishes of two out of every three New Zealanders and President Maryan Street urges members to put the heat on MPs and candidates to make assisted dying a hot election issue this year. **(See President's Letter Page 3)**.

Last October's so-called Operation Painter, in which VES members were questioned at dubious road checkpoints and outrageously in their homes, raised serious suspicions about Police motives and direction.

Police claims that they were "acting with compassion" are ludicrous and the operation raised suspicions of unhealthy interference across political, parliamentary, judicial and criminal jurisdictions.

The government's chief law advisers shrugged off a VESNZ request under the Official Information Act for an explanation, saying disclosure was not in the public interest.

We disagree. If something demanded by two-thirds of voters is not an issue in the public interest, what is?

The public was so interested in the Police's duplicitous behaviour that VESNZ garnered 64 new members in the 50 days after the news broke.

The will of the people is being ignored and those terminally ill and enduring intolerable suffering are still being denied the human right to die with dignity at a time of their choosing in the company of their loved ones.

WHAT THE POLICE DID

On October 2 last year, police mounted a checkpoint at Maungaraki, Lower Hutt, and stopped several cars driven by VES members who had attended an Exit International meeting nearby.

Some drivers, all elderly women, were breath-tested, others were told it was a driver's licence check and officers took their names and addresses. But a number were asked where they had been, what the meeting was about and what roles they had in the voluntary euthanasia organisation.

Police later admitted that their aim was to identify people at the meeting - "as we were concerned for their well-being".

Officers then visited a number of the women at their homes – some more than once – asking if they "needed any assistance" or saying they were calling "out of concern for their welfare".

Some were asked if they were planning to assist anyone to commit suicide and if they had pentobarbital in the house. Some were asked about their next of kin or details of other VES members.

Police gave them an information sheet about counselling and support services that referred to "Operation Painter." An officer at Wellington Police Station, however, told one of the women who phoned for more information that he knew nothing of that operation and a follow-up email was ignored.

In Nelson, two officers went to the home of VES and Exit International member Patsy McGrath, 76, with a warrant to seize a helium balloon kit she had bought in a shop. They said it was evidence in respect of a suspected crime – aiding and abetting suicide and they were acting on directions from Wellington police.

VES believes the manner in which officers approached our members in their homes was unfair and intimidating, causing significant humiliation, loss of dignity and injury to feelings. Police gave no prior notice and failed to provide clear information about the purpose of the visit.

Six members questioned by police made statements about their experiences to support the VES complaint to the Privacy Commissioner. Their comments included:

- "This event has been very stressful and upsetting. It has shaken my belief in the police and the way they work. I was intimidated and taken advantage of.
- "After hearing about the checkpoint, it seems to me most likely that the operation was an attempt to undermine or infect the enquiry of the Health Select Committee on the topic."
- "It is a remarkable coincidence, even suspicious, that this initiative has taken place just as many of the verbal submitters are preparing to speak to the select committee at Parliament."
- "It no longer feels safe to speak freely in general. I now know that being innocent and doing no harm to others is no longer sufficient to be allowed quiet enjoyment of life."
- "As a result, every time I hear loud noises I get very anxious and think that I will receive further visits from the police. It has made me very nervous."
- "I feel that the police actions were a violation of privacy and of the democratic right of assembly and freedom of speech. I was a bit shocked to see the powers that the police have."

HOW TO DEAL WITH THE POLICE - IMPORTANT INFORMATION

The following advice to members was drafted by VESNZ President Maryan Street and Kensington Swan Special Counsel Linda Clark in the wake of the extraordinary police actions following a meeting of Exit International in October last year.

If a Police officer comes to your door asking questions or wanting to look around, the first thing you should do is make sure he or she is in fact a member of the Police. All Police officers carry identification. Ask to see it. Police ID will have an identification number on it. Write the number down. If there is more than one officer, ask to see the ID of each officer.

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QUESTIONING - WHAT YOU SHOULD DO

Under the Policing Act 2008, an officer only has the right to ask your name, address and date of birth. So unless you are arrested, you do not have to answer any other questions. If the Police come to your home, they already know this information about you, so simply confirm who you are.

WHAT YOU DO NOT HAVE TO DO

You are not required to answer any further questions from a Police officer. You have the right to remain silent, and may ask the officer to leave (unless you are being arrested).

SEARCHING OR LOOKING AROUND YOUR HOME OR CAR

Search warrant

If the Police come to your home and tell you they want to conduct a search under a search warrant, you should ask to see the document. If they do not have a search warrant, you **do not** have to let them in.

No search warrant

The Police can search your home for illegal drugs without a search warrant, but the officer must first inform you that:

- they are searching for illegal drugs;
- they have a statutory power under section 20 of the Search and Surveillance Act 2012;
- you have particular rights under the New Zealand Bill of Rights Act 1990;
- you have the right to remain silent;
- you have the right to talk to a lawyer in private without delay, and that you can get free legal advice from a lawyer under the Police Detention Legal Assistance Scheme; and anything you say can be noted down and used in evidence against you in court.

UNLESS A POLICE OFFICER COMES TO YOUR HOME WITH A SEARCH WARRANT OR INFORMS YOU THAT HE OR SHE IS CONDUCTING A SEARCH UNDER A STATUTORY POWER, YOU DO NOT HAVE TO LET THE OFFICER IN.

Consent

Unless the officer has a search warrant or indicates a search for illegal drugs, we advise you speak to the officer **on the doorstep only**.

If you do consent to let an officer into your home to conduct a search, Police must:

- tell you the purpose of the search;
- advise you of the reason for the search; and
- advise that you can refuse to consent to the search.

EVEN IF YOU HAVE CONSENTED TO A SEARCH, YOU MAY WITHDRAW YOUR CONSENT AT ANY TIME, AND THE OFFICER MUST STOP THE SEARCH IMMEDIATELY.

THE PRESIDENT'S LETTER

Welcome to a new year of activism in the cause of physician-assisted dying. It is election year which gives us the added opportunity to put pressure on MPs to listen to the demands of the majority who want a law change.

Hundreds of people have made submissions to the Health Select Committee inquiry in the last few months, when it finally got into gear a year after having our petition in my name in front of them. We owe a debt of gratitude to each one of those brave people who finally had a forum in which to express their desire for physician-assisted dying.

An MP recently said to me that our petition and the resulting inquiry had made people think about assisted dying or voluntary euthanasia for the first time. My riposte was: No – the only people who haven't been thinking about this are MPs. That was the purpose of the petition – to inform the politicians of the issue. The community had simply lacked a forum previously to make its strongly held views known to MPs. Now there was one and MPs had to listen to them.

This inquiry is not about the numbers of submissions in favour or against. It is about the compelling nature of the arguments. MPs know a reproduced or form submission when they see one.

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They also recognise the heartfelt plea of the man in Christchurch, amongst many others, who begged them for the right to choose his moment and method of dying. No-one can hear those submissions and be unaffected.

The select committee will stop hearing submissions at the end of March. As the election is on September 23 they will have to get going with a report if they are to discharge their responsibilities before Parliament rises on August 17. I imagine that the Ministry of Health has its response written already because most of the simple and the complex arguments had been aired in front of the committee before the Christmas break, so there should be no procrastinating.

But the government has up to 90 days to respond to a committee's report and it is likely there could be no response before the election, leaving it to the incoming administration to decide whether to pick it up.

It is unusual for an incoming government not to recommit all items from a previous Parliamentary agenda, but not unheard of for them simply to drop those they do not wish to consider.

It is unlikely ACT leader David Seymour's private member's bill will be drawn from the ballot before the election and if it is, it will be virtually impossible to proceed through its three stages before the poll.

So we must make our campaign an election issue. Attend public meetings and seek each candidate's views on physician-assisted dying. Then vote accordingly and let them know you are doing so.

We will provide you with advice and resources to assist you in this.

Best regards to all our activists, **Maryan Street**

You can help put our cause on the election agenda. Ask your local electorate or list MPs their views and tell our Administrator Pete Cowley how they responded.

Email office@ves.org.nz

Phone 09 215 4964.

You can also challenge other candidates during the campaign so we know where they stand.

BAN ON RODNEY SYME LIFTED BY TRIBUNAL

The Australian Medical Board's ban on Melbourne doctor Rodney Syme, who claims to have given scores of terminally ill people a life-ending drug, has been lifted after an appeal tribunal found his practice consistent with other forms of palliative care.

The Victorian Civil and Administrative Tribunal ruled that Dr Syme's intentions were consistent with the Australian Medical Association's advice to doctors that all patients had a right to receive relief from pain and suffering even where that may shorten their life.

It was an "extraordinary decision that could set a precedent for other doctors wanting to help patients die," *The Age* newspaper reported on December 20.

The tribunal overturned the ban imposed on Dr Syme, 81, a urologist and vice-president of Dying with Dignity, in January last year by the Medical Board of Australia which said he posed a risk to the public.

The tribunal said Dr Syme's provision of Nembutal to patients he deemed to be rational was analogous to the process of terminal sedation where a mixture of opioids and sedatives are used at the end of life. This is sometimes done by palliative care doctors and is not considered to be physician-assisted death or euthanasia.

The Medical Board acted against Dr Syme after learning he was planning to give Nembutal to Bernard Erica, a 71-year-old man dying of tongue and lung cancer, who sought the doctor's help because he wanted to die at home and have control over his own death.

The board ordered Dr Syme not to "engage in the provision of any form of medical care, or any professional conduct in his capacity as a medical practitioner that has the primary purpose of ending a person's life".

Dr Syme challenged the ruling at the tribunal, arguing that his provision of Nembutal to people with intolerable suffering was not done with the primary intention of ending their life, but rather to relieve suffering and to give them control over their death.

His lawyers argued that this was consistent with the doctrine of "double effect" in medicine which permits doctors to administer drugs or other treatments to relieve symptoms even if there is a secondary consequence of hastening death.

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Dr Syme told the tribunal he had counselled about 1700 people with terminal illnesses or intolerable suffering over many years, and had provided about 10% of them with Nembutal. He estimated about 40% of them actually took the drug to end their life and all benefited from knowing they had the option.

Two palliative care specialists backed Dr Syme, telling the tribunal that it was only their understanding of current law that kept them from doing what he did. The tribunal accepted Dr Syme's "frank and comprehensive evidence" and said he demonstrated extensive and relevant experience and expertise in counselling terminally ill patients; was relevantly informed about palliative care; and knew when to refer people to psychiatric care.

"In the tribunal's view, consistent with the opinions of both experts, the choice of a rational patient who elects to end their life rather than endure intolerable suffering and an uncertain death by means of other palliative care options, is not a death which can be described as harmful for the patient," it said.

Overturning the ban on Dr Syme's medical registration, the tribunal found he posed no risk to the public. He said the ruling "completely vindicated" his work.

SOME CANADIAN CATHOLIC BISHOPS SEE THE LIGHT

By VES Immediate Past President Dr Jack Havill

Canada's adoption of enlightened end-of-life choice legislation has opened a possible chink in the Catholic Church's rigid opposition to medically assisted dying in that country.

Catholic Bishops from the Atlantic Episcopal Assembly suggested that priests can administer last rites sacraments to parishioners who are helped to die – and cited Pope Francis as their authority for saying so.

It has caused a split in the church in Canada, with some Bishops in the west of the country, e.g. Alberta, sticking firmly to the conservative line that having assistance to die is a mortal sin, refusing to administer the sacraments and in some cases declining to conduct the funerals of parishioners involved.

The Atlantic bishops are modelling their approach on a papal document called *Amoris Laetitia* which says that sacraments like communion – formally barred to people who had become remarried in the Catholic Church – may be administered depending on the seriousness of their commitment to the faith.

Basically, it acknowledges that it is very difficult to prescribe for every situation and encourages priests to "walk with the person where they are".

The Atlantic bishops suggest that the priests should try to support the terminally ill person, understand where they are and administer the sacraments as appropriate.

This group has written a letter called *A Personal Reflection on Medical Assistance in Dying (MAID)*. They point out that it is a highly complex and intensely emotional issue, involving people convinced that there is no longer any value in their lives because their suffering has become unbearable.

"People with such a conviction or in such circumstances deserve our compassionate response and respect, for it is our belief that a person's value arises from the inherent dignity we have as human beings and not from how well we function," they say.

The letter also examines the primary purpose of the sacraments and points out that it is appropriate for the priest, after due consideration, to administer rites including the Sacrament of Penance for the Forgiveness of Sins, Anointing of the Sick and Reception of Holy Communion, and further, to conduct funerals for this group of parishioners.

The Atlantic group are to be commended for their stance because even though they are basically against MAID, they are prepared to put patient needs before rigid conservative dogma.

VES ANNUAL GENERAL MEETING 2017

Saturday 17 June 2017 - commencing at 10:30am.

Holiday Inn, Auckland Airport, 2 Ascot Road, Mangere, Auckland 2022 (Phone 09 275 1059).

The morning devoted to regular AGM business, to be followed by a guest speaker in the afternoon. More information will be posted to members in April when you can nominate candidates for the National Committee and send in resolutions, including possible changes to the society's rules. You will also get a remit on the suggested change to the Society's name which will be voted on at the AGM.

AUSTRALIA Victoria is virtually certain to become the first state to legalise assisted dying for the terminally ill after the Labor government committed to introduce a Bill to Parliament this year.

MPs will get a conscience vote but reports said politicians of all persuasions supported a new law, with the size of the majority to be determined by the strength of safeguards. After an exhaustive inquiry, a cross-party committee came out in favour of medically assisted dying last June and Premier Daniel Andrews announced on December 8 an expert panel of clinical, legal, consumer and health experts would advise the government on drafting legislation. A formal government response to the committee's report said a "safe and compassionate" legislative framework for assisted dying should be made part of the state health system.

Under the committee's proposal:

- Competent adults suffering serious and incurable condition, in the final weeks or months of life, would have the right to choose when and how they die.
- They would have to request help to die three times - including a formal written request - and be approved by two independent doctors.
- Doctors would prescribe a lethal drug that would be taken by a patient, and a review board would ensure doctors were complying with requirements.

The 15th attempt to pass voluntary euthanasia legislation in **South Australia** failed at 4 o'clock in the morning of November 17 by the casting vote of the Speaker of state parliament – a religious conservative and outspoken opponent of a law change. Michael Atkinson broke a 23-23 conscience vote deadlock after an eight-hour debate dissected the proposed bill which MPs had earlier supported through the first and second reading stages and voted 27-19 to refer it to committee scrutiny.

Advocate Andrew Denton later described Atkinson as "a leading member of the Australian Labor Party's religious conservatives and a committed opponent to voluntary euthanasia in any form". He said a carefully orchestrated campaign of fear and misinformation, propagated by religious groups and sections of the medical community, had worked. The Premier, Jay Weatherill (also of the ALP) said he was "gutted" by the defeat, but was sure a new bill would in time be introduced. Observers said this was unlikely before the next election in 2018.

The bill's sponsor, Dr Duncan McFetridge, said: "I am determined not to let the current debate on voluntary euthanasia be hijacked by a small group of MPs and/or a very vocal and sometimes vicious minority. They would, I am afraid to say, prefer that someone drown in their own fluids as a result of pulmonary oedema or die from starvation and dehydration after being terminally sedated. How callous. How cowardly. And how often it is that this comes from those who preach compassion."

A new bill was moved in the **Tasmanian** state Parliament on November 17 and will be debated this year. A similar Voluntary Assisted Dying bill was lost by two votes in 2013 and local campaigners believe that with growing momentum for change across Australia, it has better chance of success this year. The **New South Wales** Parliamentary Working Group on Assisted Dying is drafting a bill and the Greens plan to introduce a Federal VAD bill to the Senate this year. Alida Lancee, a **West Australian** doctor who is under police investigation after admitting she helped a terminally ill patient to die five years ago is considering standing against the ultra conservative Premier Colin Barnett in a bid to make assisted dying an issue at the state election in March. Lancee, who may run as an Independent, said a newspaper survey showed 80% of the state's population supported voluntary euthanasia. She said last year that the patient had attempted suicide using a plastic bag over her head on several occasions and had begged her to help her die. Dr Lancee is helping pro-euthanasia MPs from three political parties to draft end-of-life legislation to go to the state Parliament after the election.

UNITED STATES Six million more Americans gained the freedom to die with dignity in the last weeks of 2016 when new assisted dying laws were signed into effect in the state of Colorado and the District of Columbia, home to the nation's capital, Washington.

But conservative opponents in Congress, which has the final say on laws affecting the capital, were poised to block the change which polls showed was supported by 67% of DC residents. Colorado voters voted 65% to 35% to approve an End of Life Option Act at a referendum in November, by far the biggest margin in any state that has held a public ballot on the issue. Democrat Governor John Hickenlooper signed it into law on December 16.

Five states, Oregon, Washington, Vermont, California, where assisted dying became legal in June, and Colorado now have specific laws allowing terminally ill residents to decide how and when they die. It is legal in Montana by right of a Supreme Court ruling. The 600,000-plus residents of the District of Columbia were given the same right when the ruling Council voted 11-2 on November 15 in favour of a Death with Dignity Act introduced nearly two years earlier. DC Mayor Muriel Bowser signed it into law on December 19, but by mid-February opposing Congressmen were set to kill the measure.

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Peg Sandeen, executive director of Death with Dignity, said: "The attack won't stop here. This looks like an opening salvo in an effort to outlaw Death With Dignity nationwide." She said more than 230 legislators in 26 other states had sponsored or planned Oregon-style Death with Dignity bills for their constituents.

BRITAIN Noel Conway, 67, who has motor neurone disease (MND), is seeking a judicial review of Britain's 1961 Suicide Act, which makes it a criminal offence punishable by up to 14 years in prison for anyone to assist another to die.

It will be the first High Court challenge to the law since MPs rejected a bill to introduce medically assisted dying in 2015. It will also be the first such case since three disabled men lost appeals for help to die from their doctors at the Supreme Court in 2014. The court, like New Zealand High Court judge David Collins who rejected Lecretia Seales's similar bid, said it was up to Parliament to decide whether to change the law. Conway, a retired college lecturer, said: "I have a right to determine how and when I die and I want to do so when I have a degree of dignity remaining to me. I fear I will reach a stage where I am entombed in my own body as my ability to move gradually reduces - that would be unimaginable."

A British judge ruled that a 43-year-old policeman artificially kept alive in a coma for 18 months after a road accident should be taken off life support as his wife requested.

Doctors at a medical centre in Liverpool had refused the request to let Paul Briggs die, arguing that he was in a "minimally conscious state" with potential to improve though he would remain severely physically disabled and could live for up to 10 years with 24-hour care. His wife Lindsey told the Court of Protection that doctors' refusal to end life-sustaining medical intervention treatment defied the previously expressed wishes of her husband who would not want to live in his condition. "I think he would see it as torture, just as hell...he would be living for no reason." Judge William Charles agreed and directed he be moved to a hospice where he would stop receiving fluids and nutrition under palliative care in his final few weeks.

BRANCH EVENTS

- KAPITI-HOROWHENUA** Saturday 8 April - Branch AGM (to be confirmed)
- WAIKATO** Sunday 26 March, 2pm - CCS Building, Claudelands Road, Hamilton - Branch meeting
Dr Phillipa Malpas, Senior Lecturer in Clinical Medical Ethics speaking on "Recent Results on Attitudes to Voluntary Euthanasia".
- WELLINGTON** Saturday 11 March, 2pm - Wellington Public Library
Helen Cartmell will speak on the Registration of Death procedure
Richard Cooper from MedicAlert will speak on the services they offer.
Saturday 10 June - Branch AGM with Libby Smales speaking on Advance Directives.

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NEWSLETTER EDITOR David Barber

YOUR FINAL WISH - MAKING A BEQUEST

Bequests are vital to the survival of any non-profit organisation.

Bequests provide ongoing funding streams. And make it possible to create long-term plans. Bequests are the cornerstones of non-profit organisations, like **End of Life Choice**, because they provide stability.

If you can hear yourself saying, *"This is what I support, and I want this issue to be important even after I'm gone"* then please consider making **End of Life Choice** a beneficiary of your will by creating a bequest.

Ours is a unique issue, one in which our most ardent supporters might not be with us for long. Our fiercest opponents might later turn to us for help.

You could consider asking friends to make a donation, in lieu of flowers, at your funeral.

Please take the step to support End-of-Life rights in your will.

DONATIONS AND CONTRIBUTIONS

You can make a contribution in any amount of your choice - in single, monthly, or yearly donations.

- 1 Cheque payments can be mailed to
PO Box 48 241, Silverstream, Upper Hutt 5142
- 2 Direct payments into our bank account **Kiwibank 38 9006 0226036 02**
(Be sure to include your **NAME** and **"DONATION"** in the bank details).

Your donations help us to continue the expansion of our work and help us continue to work for your right to make decisions for your End-of-Life Choice.

GUIDE TO DYING - YOUR WAY

End-of-Life Choice has teamed with medical and legal experts to assemble a comprehensive step-by-step guide to help you create an Advance Directive that reflects your wishes.

It also contains information on choosing an Agent, someone you entrust to ensure your wishes are carried out. This answers important questions you may have about writing an **Advance Directive**, which meets your personal wishes; it offers tips for relief of pain and suffering, the legality of an **Advance Directive** in New Zealand, and keeping your **Advance Directive** up to date.

Order your **Guide** and **Advance Directive** today

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