

TRANSCRIPT

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Inquiry into end-of-life choices

Mornington — 29 October 2015

Members

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Ms Nina Springle — Deputy Chair

Ms Margaret Fitzherbert

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Mr Daniel Mulino

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Witness

Ms Mary Waterman.

The CHAIR — I declare open the Legislative Council legal and social issues committee public hearing in relation to the inquiry into end-of-life choices. I welcome Ms Mary Waterman, who has made a submission to the inquiry. Thank you, Ms Waterman, for being with us this afternoon. Before I invite you to make some opening remarks, I caution that all evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and further subject to the provisions of the Legislative Council standing orders. Therefore you are protected against any action for what you say here today, but any comments made outside the hearing are not afforded such privilege. Today's evidence is being recorded, and you will be provided with a proof version of the transcript in the next week. Transcripts will ultimately be made public and placed on the committee's website. We have allowed half an hour for our time this afternoon, so I invite you to make some opening remarks — again, I thank you for your submission, which the committee has received and read — and thereafter we will have questions.

Ms WATERMAN — My name is Mary Waterman, and on 10 January 2014 my son, Joe, suicided using the drug Nembutal. He obtained the Nembutal from the international website Exit International, set up by Philip Nitschke. Joe found *The Peaceful Pill Handbook* on this website. This book was written by Philip Nitschke and his wife, Fiona. The drug Nembutal is the peaceful pill. There are specific instructions on how to obtain Nembutal in this book.

I would like to make it clear to everybody who is here today that I do believe in euthanasia if a person is seriously ill and does not wish to die in pain. Euthanasia would be appropriate in my opinion. My son, Joe, was not dying. He was physically fit, but in retrospect he was suicidal and depressed.

In mid-2013 Joe had come back to live with us after moving out of home for 12 months. He moved back home because he had lost his part-time job, had no money and was unemployed. He was taking a break from study and had nearly finished a bachelor of design.

There was no history of depression with Joe beforehand. I thought that Joe may be depressed, because as soon as he moved back in with us he was having trouble sleeping and was irritable and anxious at times. He was looking for a job but could not find one. He had one subject to do so he could finish his degree but was not motivated to finish the subject. His behaviour at times was out of character for him. I could not put my finger on what was wrong with Joe. He would at times make up stories that were not true. He would behave in a manic way — for example, talking very quickly, saying strange things and acting impulsively — which was unlike Joe. At other times he behaved as he normally did. He had a wonderful sense of humour. He was very caring, a good listener and interested in everyone. The room lit up when Joe walked in.

He did see two psychologists in mid-2013 after I persuaded him to. He only went to see them both one time each and then did not continue seeing them, as he said he did not want to. He continued to insist he was not depressed. He did not ask for help or give any indication to his friends and family that he was suicidal, although I noticed that he was not happy at times and he slept a lot. But he would put on a mask of happiness when he met with friends or other family outside of the house.

After Joe suicided we found information on his iPad which he had downloaded. My husband found *The Peaceful Pill Handbook* on the iPad, which Joe had downloaded from the Exit International website, which is on the internet, and he had ordered the Nembutal by post from China. The peaceful pill book includes very specific instructions, which we read, on how to obtain Nembutal. Anyone here today can order this drug and import it by post from China, as Joe did, within two weeks. The packet of Nembutal arrived inside a greeting card. To obtain Nembutal is very easy to do: just google 'euthanasia' or 'peaceful pill handbook'.

AHPRA have done as much as they can within their power to put restrictions on Philip Nitschke. He cannot do workshops on how to kill yourself. He cannot spruik Nembutal or nitrogen as ways to kill yourself anymore. But his website Exit International and *The Peaceful Pill Handbook*, which he and his wife, Fiona, wrote, can still be downloaded off the internet. If anyone now wanted to download *The Peaceful Pill Handbook*, which gives methods of killing yourself and how to order Nembutal from China, it is very easy and could be done by anyone here today.

I have written to many government agencies since Joe suicided, explaining how my son suicided and how easy it was for him to access Exit International. They have all handballed me onto another government agency, and therefore I have just gone around in circles. Euthanasia is obviously a hot potato which the Australian government continues to put in the too-hard basket. I have been told by various government agencies that, even

if Exit International and other websites like it are closed down, another website will pop up. That may be true, but at the moment these websites are extremely easy to access. In this world, where most people are computer savvy, the government must catch up and be on top of these websites. Close them down. If they pop up again, close them down again and again. At least restrict the sites so that it is very difficult for people like Joe to access them.

On the Exit International website my son, Joe, ticked a box saying he was over 50. I do not know why being over 50 allows a person to be able to commit suicide. Does being over 50 mean you are dying? I am over 50, and I am not dying. I had to certify many death certificates for organisations to prove my son was dead. It is just ludicrous that to suicide he had to just tick a box saying, yes, he was over 50.

Philip Nitschke and his wife, Fiona, make money from this website; it is not a non-profit organisation. Nitschke has said that Joe would have hung himself anyway. How does Nitschke know that? He also called Joe a liar because he ticked a box saying he was over 50. I do not think somebody who is suicidal cares if they are called a liar or not. If Philip Nitschke thinks Joe would have hung himself anyway, then why does he advertise peaceful pill methods to die? The reason is because taking Nembutal is a peaceful method of suiciding and hanging yourself is a violent method of suiciding.

In the past 22 months I have felt like ending my life too because of the pain and grief I have suffered since Joe suicided. Taking Nembutal is an appealing method of suicide if you are depressed or suicidal, as Joe was. I do not believe Joe would have used a violent method such as hanging himself, but we will never know. He may have asked for help. His family and friends may have had more time, and then we may have had a chance to help him if he had not found such an easy and alluring method of taking his life.

Another mother I know who lives on the Mornington Peninsula also lost her son to suicide. He also used Nembutal. He took his own life. He also accessed the Exit International website, and he was instructed on how to get the Nembutal. His name was Lucas, and he suicided in March 2012. He was 26 years old.

I implore the Australian government to do something about closing down this Exit International website to prevent more suicidal people using Nembutal to take their own lives. Do the public have to wait until the number of suicides of mentally ill and suicidal people using Nembutal is at epidemic levels before the government does something? Thanks for listening.

The CHAIR — Thank you so much for sharing such a difficult and personal story. We really do appreciate it. You said you have lobbied numerous governments and agencies and whatnot over recent times. Have you had any response from the federal government?

Ms WATERMAN — I contacted the federal police — federal customs. They said they cannot do anything because there is just too much stuff going through customs that they cannot open it all up. I have contacted my local member. I think he is Greg Hunt. I think he is putting in a complaint to the Attorney-General regarding the coroner. I am also disappointed with the coroner. I actually complained to the Attorney-General about their final report, because to me it was very contradictory and inadequate. There were a whole lot of facts about Joe that were wrong. I asked them to do an inquest. They said no. There are lots of things about the coroner that I could go on about. The other government agencies — —

I am just trying to remember. There are so many of them! I think I was just writing letters left, right and sideways. I do not think there were many government agencies that I did not contact. The Minister for Mental Health in Victoria does not know about Exit International, which surprises me. I just do not know why.

I find Black Dog have been a really good organisation; they seem to be doing something about preventing suicide. They were the ones that I first contacted about three months after Joe died because they said there needs to be more education in schools for suicide, but they also said on the internet. Sorry, but if you put 'suicide' in, it does come up with some little promise that you will go to get help, but you do not need to put much more in and you can get onto the peaceful pill handbook. It would not take much just to jump onto the site. I said, 'Look, I agree with you. There needs to be more talk about suicide'. I think it is something that if you do not talk about it, it will not happen. Sorry, it does happen. It happens to a lot of young men, as we know.

The coroner did say in her report that Nembutal deaths are increasing, because it is so easy. You do not need to go to Mexico or Peru anymore; it just gets posted from China. I thought my son had his own postbox because

he was getting a lot of fines as well, which was another symptom, I guess, of his depression. I did not know that he got this. He just collected it from his own postbox, and then he went to a motel and he died by himself.

I was trying to think of which other members I have contacted. I have contacted the Australian media association. I have been told to contact them many times. They do not do anything. What do they do? They put restrictions on films. There is nothing they can do. Lots of people just say there is nothing we can do about it. It is an international website. Bad luck. The only person I have found who has been at all helpful is this fellow I have been talking to, Brett Judd from, AHPRA. They actually got his iPad. They got it sent over to Adelaide, and they actually looked at it. They worked specifically on Philip Nitschke, because deregistering him — I do not know if he practices as a doctor — is not going to make any difference. They have specifically, as you probably know, put a whole lot of restrictions on him. But I would not trust him. He could go underground. The things he said about Joe when I went on the 7.30 report about three months afterwards. What happened was when I contacted the ABC, they had an interview with Philip Nitschke with the fellow who suicided over in Western Australia. They said, 'Can you be on the 7.30 report?', which is on the internet. That is when he called Joe a liar. They said, 'So Joe ticked the box that he was over 50?', and he straightaway said, 'Well, he's a liar'. Then they came back to me and said, 'What do you think about that?'. I said, 'Yes. He is a liar'. Of course he is a liar, because he wanted to get the drug. But he did not have to show a certified death certificate, like I did to the bank to close his website down. He did not have to show his licence to show how old he was. He did not have to do anything. He really did not have to do anything.

Philip Nitschke pretends that he cares. He does not care. It is all about him. He has actually said it should be on the shelf. The difference between suicide and euthanasia to him — there is no difference. To me, there is. Suicide is suicide; euthanasia is euthanasia. He said, 'Joe is a 25-year-old man. He can do what he likes'. To me, it is different. I will leave it at that. Sorry.

The CHAIR — No, not at all. Please do not apologise.

Ms PATTEN — Thank you, Ms Waterman. It was a really troubling submission and story. I certainly saw it when the incident occurred. I must say I have some sympathy with the government organisations that you have spoken to. *The Peaceful Pill Handbook* is a banned publication in Australia. It is illegal to import, it is illegal to sell. The Exit International website is a blacklisted site. ACMA, the media authority, has blacklisted it, so they have done what they can do, but it is hosted offshore, so it is very difficult. It is the internet. You know —

Ms WATERMAN — What about child pornography? What happens with that?

Ms PATTEN — It is the same thing. Again, because it is interjurisdictional it then relies on the country of origin. It relies on the place where it is posted. Child porn is slightly different because it is illegal just about everywhere, whereas that handbook and that website are not necessarily illegal in other countries. That book is not legal here, but it is not illegal in the US nor in the UK nor in most parts of Europe. Because there are different laws in different countries this is what makes it difficult. However, I really appreciate what you were saying about how your son could readily access that information.

Ms WATERMAN — And more people will too.

Ms PATTEN — And we heard from the coroner who was saying that. I guess that facing the challenge that it is very hard to close that site down —

Ms WATERMAN — What do you do with child pornography websites?

Ms PATTEN — That goes on to Interpol. As I said, child pornography is illegal in the countries where it is being hosted. So where that site is not necessarily illegal in those other countries, Interpol is not going to do much about it because the site is —

Ms WATERMAN — But it is illegal in Australia.

Ms PATTEN — It is illegal in Australia.

Ms WATERMAN — Could the federal police or agents that are looking at child pornography sites maybe use some of their time to look at the Exit International website?

Ms PATTEN — The Exit International website is very easy to find.

Ms WATERMAN — Yes. But could they put restrictions on the website?

Ms PATTEN — They have. They have put the restrictions that they can on it.

Ms WATERMAN — Which is what?

Ms PATTEN — Which is the blacklisting. If anyone uses a filter system on their computer, it will block the site. You will probably find — —

Ms WATERMAN — When did that happen?

Ms PATTEN — That happened a number of years ago.

Ms WATERMAN — So how come my son was able to look at it?

Ms PATTEN — Because he probably does not have a filter on his web access.

Ms WATERMAN — No, that is right.

Ms PATTEN — In schools there would be a filtering device, in libraries to a degree, but certainly in government buildings it would probably be less easy to access. Recognising that real difficulty in — —

Ms WATERMAN — But I just do not think you should give up.

Ms PATTEN — No.

Ms WATERMAN — There have to be other ways. Not that I would want you to work with Philip Nitschke, but him just being a responsible person — why would you just have a box saying, ‘Tick the fact that you are over 50’? What does that mean?

Ms PATTEN — I do not know.

Ms WATERMAN — That is for me. I am over 50.

Ms PATTEN — It is just arbitrary. Yes, me too.

Ms WATERMAN — I do not care, because it is not going to bring Joe back anyway, but I am just thinking of the future, and I am wanting some sort of justice. But at least you could say to him, ‘Why can’t you just put on it “Get a certified picture of somebody’s licence or a certified picture of a medical certificate saying they have cancer and are dying”’. There are lots of ways. Euthanasia is not legal, is it?

Ms PATTEN — No.

Ms WATERMAN — No. Therefore people are still going to do it, so if they are going to do it and they are dying in pain, why can they not just prove it to them?

Ms PATTEN — I have to say probably the best way to fix this situation would be to legalise voluntary euthanasia.

Ms WATERMAN — Sorry?

Ms PATTEN — It would be to legalise it and regulate it.

Ms WATERMAN — Probably, yes.

Ms PATTEN — Then we could control it within regulation, and then it would not be available like that.

Ms WATERMAN — But in the meantime — —

Ms PATTEN — I know.

Ms WATERMAN — I do not understand why he will not do that.

Ms PATTEN — I think that is a good question to ask him. I suspect because of the legal ramifications of that, given the — —

Ms WATERMAN — What legal ramifications?

Ms PATTEN — For example, if he were to take somebody's drivers licence or to take some sort of information, then rather than just saying I have got a book out there and you can read it if you do or do not want to, it would become a lot more transactional.

Ms WATERMAN — Oh, okay. So ticking a box and paying money for a subscription is okay. And you are saying downloading the book is almost like buying the book.

Ms PATTEN — That is right.

Ms WATERMAN — There is no difference.

Ms PATTEN — That is right. In some states it would be illegal to possess that book.

Ms WATERMAN — You cannot get the book. You have to download it.

Ms PATTEN — You subscribe to it, and you can download it.

Ms WATERMAN — It is very, very, very, very detailed. It does not just go 'this'; it is actually quite specific.

Ms PATTEN — I have not seen it myself, but I am well aware of it.

Ms WATERMAN — I just think that in this day and age governments cannot turn a blind eye anymore. It is like, 'I don't want to deal with that'. You are going to find that it is going to happen to somebody famous. Why did the coroner not do an inquiry? I have got the shoddiest final report you have ever seen. I am just horrified at the coroner. They call people by numbers. If you ring up the coroner, they say, 'What number?'. They do not ask you for the name. I had a solicitor's letter last week telling me that he had finished his bachelor degree in design, he was living somewhere else and he was not living with his family. All these facts are wrong. It is so disrespectful. Then they go on about rational suicide and not rational suicide, but they do not actually say whether he committed rational suicide or not rational suicide. They just bandy the words around.

The whole thing is just atrocious, so I have just written a complaint to the Attorney-General, because they should write another report and do a half decent one. They said they want to publish it. First they gave me the option of saying if I wanted it published. No, I do not. Then they said, 'Well, we're going to publish it anyway under blah, blah, blah act'. How am I supposed to know what that act is? Under prevention. 'Prevention of what', I asked the liaison person, because I cannot see anything in this final report that says prevention of suicide. She said, 'I don't know'. I still do not know why they want it published, because they have not actually said. It is for prevention reasons but not prevention of suicide.

It is just all so cloak and dagger. It just does not make sense — the whole thing. People say, 'The poor coroners', and I just say, 'I'm sorry. I know they see awful situations, but that is their job'. I think they can spend time, especially in this situation where it is quite complicated. They lost Joe's diary. Joe had a diary. I have asked her so many times, through the liaison person, 'Did you read the diary?'. 'No'. She hasn't given me an answer. I don't know. Basically it is not mentioned in the final report. It is mentioned that my husband read the iPad and that my husband read the diary. They never even had the iPad, but AHPRA got it. Why didn't they get it? They got the diary. I went on, every week for weeks, saying, 'Where's the diary?'. I do not think they could find it.

I personally think they pretended to send it, because when I went to the post office to pick up this diary, the envelope was just like a piece of paper; it was open, and there was nothing in it. They basically tried to blame Australia Post. Australia Post say it was not sealed properly. They said, 'We'll change our practices in the future'. I am sure they lost it, but what can I do about it? It is just shoddy. It is bad enough that the police report

was shoddy, but the coroner's report? I do not know where they got their information from. How did they get the information that he had not finished his degree? Who gave them that information?

The CHAIR — Are you making a complaint to the — —

Ms WATERMAN — I have made a complaint to the Attorney-General, yes. It is just that the final report would not be worth publishing, I think. That is all.

Mr MULINO — I just want to say thanks for sharing your story, and I think you have raised a lot of difficult regulatory issues. Having dealt with the commonwealth before, I fully understand — I have been on both sides of it — the handballing between agencies. I think it would be worth us looking at what other countries do, and maybe that might provide some insights. Maybe some other places do a better job.

Ms WATERMAN — I am also going to Victims of Crime. My psychologist mentioned, because I was saying that I need to get some counselling because I have run out of counselling, that she has done a few reports through Victims of Crime, and in Victoria we have a bit more funding towards that. As it turns out I have a contact of somebody who works at Victims of Crime, so they gave me a solicitor — Madeline Prior in East Bentleigh — and all that Victims of Crime now want is the final report, but I cannot get the final report because I have made a complaint. My psychologist said she has been paid for her report, and she said that looks hopeful.

If that does go through — that compensation for counselling, which would be for my husband and my daughter, who have been in there and talked to the psychologist, and she has done reports for them — and they award us compensation, then that will be the law tested out. That could make life interesting. I do not want to go on forever and ever about this. I want to move on, but I want to know that I have tried as best as I can, and hopefully it might help you and the government in the future, and other people.

The CHAIR — Absolutely. We sincerely thank you, Ms Waterman, for having the courage to tell your story and what has happened to you. We sincerely appreciate it, and we will reflect and think very deeply about the points you have made today.

Ms WATERMAN — Thank you.

Witness withdrew.