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THE GRIEVING MOTHER

THE DYING MAN

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THE ADVOCATE

A RIGHT TO DIE? TALES FROM THE NEW FRONT LINE

By Kate Legge
Does the right to a peaceful death extend to the young and depressed?

KATE LEGGE | THE AUSTRALIAN | OCTOBER 11, 2014 12:00AM

“HERE it is,” says Michael Tinsley, jiggling a plastic bag with enough of the suicide drug Nembutal to kill both of us should we decide on a whim to mix the white powder with water and drink our death.

Sunlight streams through the window of the upstairs study where he ordered his stash online after a briefing by Exit International’s Philip Nitschke. “I went to one of their meetings. They’re quite fun. Philip Nitschke is a good talker,” he chirps.

One of the fitter 75-year-olds you’re likely to meet, Tinsley plays tennis once a week and still skis black runs. “I’m getting a bit forgetful,” he concedes, but apart from medication to treat an irregular heartbeat he glows with good health and enthusiasm for life. So why did he want Nembutal? “Just to see how the system works and to say…” – he utters a noisy two-fingered salute — “to the police and also the stupidity of the law.”

No one at Exit International quizzed his purpose. Nitschke guided him through how to procure a banned drug as if he were purchasing new slippers from an overseas retail chain. “He said, ‘It’s easy. You buy your membership to Exit International and access a copy of the Peaceful Pill eHandbook and there’s a chapter which lists suppliers you can buy Nembutal from. We update the electronic version of the book every six months to keep up with the good guys and the bad guys. You’ve got five good guys, another three or four who are a bit iffy, then you’ve got the real cheap guys at the bottom who we wouldn’t recommend. By all means send the money but you mightn’t get Nembutal. So use the top five.’”

Tinsley placed a $475 order with his credit card last November. “I told them to label it ‘Christmas presents’. When the package arrived I went down to Western Union and collected it.” He hasn’t had its potency verified. Exit International’s mobile testing unit is difficult to pin down as the organisation dodges law enforcement. Tinsley doesn’t want a police warrant either, so by the time this article is published he will no longer possess his banned booty.
Weeks after Tinsley procured Nembutal for a bit of a lark, 25-year-old Joe Waterman clicked through the same online procedure. He bought a copy of the *Peaceful Pill eHandbook*, ticking a box to declare falsely that he was over 55 and stating he was not mentally ill. No proof was necessary to access the list of “reliable” suppliers willing to ship drugs on confirmation of payment. On the morning of Sunday, December 15, Joe sent an email to “Johnson”, otherwise known as Cuilan Xu from Zhongyang Road, Nanjing, China: “Hi There. I’m looking for some pentobarbital sodium (Nembutal). I was told you are a reliable source. I was wanting to place a mail order for 25mg to Australia. Kind regards, Joseph.”

A reply followed swiftly. “Cargo is in stock … Purity: 99% min … If any query please contact me freely. Best regards Johnson.”

By the end of the day, Joe Waterman had transferred $US500 to Johnson via Western Union with an extra $100 for shipping. “OK, I got it. I will ship cargo to you next week,” Johnson promised. “Fantastic, good to hear,” wrote Joe on Monday morning. Three weeks later he checked in at a South Melbourne hotel, where he took his life.

**Mary Waterman and her husband Nick live at** the end of a steep winding road on Melbourne’s Mornington Peninsula. They were aware their only son Joe had been struggling to find his place in the world. Proudly gay, he was finishing a graphic design degree and looking for part-time jobs without success. Mary had encouraged him against his will to seek psychological counselling. A social worker who helps families stay afloat, she sensed his unhappiness: he would sleep too much during the day, then often stay up through the night with his laptop; he would take long walks on his own through the bush surrounding their small acreage, and disappear for days alone at the family’s beachside caravan. He didn’t drink heavily or take drugs but he’d tune out by swimming laps or walking. She bought him a second-hand car for the hour-long drive into the city so that he could remain connected and attend lectures.

Her attempts to fathom his mental state met stubborn resistance. “The only way I could get him to see a psychologist was to say to him, ‘I know you’re not depressed’ even though I knew he must be. I told him, ‘Maybe they will help you sort out the direction you want your life to take’. I just had a feeling that even if he didn’t think he was depressed, he needed help. I told him that I see a psychologist and it’s assisted me.”

Furious initially at her suggestion that he might benefit from therapy, he
relented eventually and visited a GP in early 2013. After two appointments with a female psychologist he decided not to continue treatment. “He said he didn’t like her because she was too judgmental, suggesting he was depressed when he believed he wasn’t.”

Mary walked the blurry line that confounds parents of young adults. Caught between pushing too hard and giving him space, she intervened where she could, clinging to the hope that Joe would find his way clear of whatever troubles he shouldered. During 2013 he became more impulsive, with little progress towards long-term goals of employment or study. His blue moods were interspersed with manic, elevated behaviour. In September, Mary urged him to see another psychologist, this time a male practitioner in Melbourne. Joe seemed comfortable with him but complained of the distance so Mary found another professional locally but no appointment was made. When a string of unpaid traffic fines caused tension in October, Joe secured a city post office box for privacy.

“We’d got to the stage where we didn’t ask him where he was going or when he’d be home. He didn’t want me ringing him up chasing him,” Mary says. “Nick and I were at a complete loss. We didn’t know what to do or how to help him.” Concerned by his aimlessness and hours spent sleeping, she sought to make him feel loved. “A couple of times he would get angry with us and say that we thought he was hopeless and we’d tell him how creative and clever we thought he was,” she recalls.

“I actually said to him a week before he died, ‘You’re doing OK. You’re going to uni, you’re looking for work, you’re walking, swimming, you’re having an OK time, you just stay here, you’ll figure it out. It’ll be OK.’ I didn’t want to get on his back anymore.” She reassured him. “I said to him, ‘If you moved out I’d miss you’.”

Joe behaved irritably over Christmas but these mood swings were subtle enough not to trigger undue alarm. In early January, Joe travelled with friends to Tasmania. “We saw him when he came back. He appeared happy and said he’d had a good time,” Mary says. The summer ambled along. Family members from interstate came to stay. On Thursday, January 9, Mary went to work. Joe told his father he was going to the city to spend time with a friend. “He said, ‘Tell Mum I won’t be home tonight’.” Mary pauses as grief wells up at her son’s parting words spoken in a carefree manner that camouflaged their finality. “I don’t think he wanted to say, ‘Goodbye’,” she says through tears, telling me as much as herself, for how else can a mother survive this much pain?
When police contacted her on Friday evening with news that Joe’s body had been found in a hotel room, she did not immediately suspect suicide. There was no evidence of self-harm; no alcohol, no drug paraphernalia nearby. Only traces of white powder in an envelope in the bin. “We thought it must be a heart attack from -steroids because he’d been doing weights,” she says. On the day of Joe’s funeral, the coroner’s office rang to confirm the presence of a euthanasia barbiturate in his system. “My husband said, ‘That can’t be right’.”

Joe left behind no explanatory note beyond a trail of electronic footprints plotting his death. Trawling through his son’s iPad, Nick -Waterman found email traffic that took him from Exit International in the US to the Peaceful Pill eHandbook, which led him to a Nembutal -supplier in China. They can’t remember Joe ever talking about euthanasia or Exit Inter-national. Joe had accompanied Mary to the vet when she put her old dog to sleep. “They used Nembutal and it was easy,” she recalls. “But he didn’t say anything.”

Since January they’ve searched their memories with the distorting dark lens of hindsight. They now think he suffered from bipolar disorder. He’d told a friend he was depressed, but in between the lows he’d bounce back. They curse the stigma around suicide and depression that strangles anguished cries for intervention. They’ve found evidence of Joe’s interest in an afterlife. They flinch at how irritable he’d been over Christmas. He’d given his older sister a beautiful necklace in November after missing her son’s first birthday. Every action is reinterpreted through the plans he hatched secretly metres from where they gathered around the hearth. Recently Mary found a greeting card in the side of Joe’s bag sent by the Chinese supplier to camouflage the deadly powder tucked in its fold.

Nembutal is a brand name of the barbiturate pentobarbital; it’s legitimately used by vets for the euthanasia and -sedation of animals. Barbiturates such as Nembutal can be imported legally into Australia with prior permission only. Criminal sanctions apply if Customs intercepts illegal caches. In his biography Damned If I Do, Philip Nitschke documents his efforts since 1997 to publicise sources for what he calls “the best end-of-life drug”. Initially he directed customers to suppliers along the US-Mexican border — but that means expensive overseas trips. Then, several years ago, Nitschke discovered a stream of laboratory-grade sodium pentobarbital from largely unregulated chemical firms in China. He has outsmarted law enforcement at every turn.

When his Peaceful Pill Handbook was banned in -Australia in 2007 he
published an electronic version — the eHandbook — in the US, defying local censorship. “While we were not encouraging our readers to import the drug, we noted that it was now readily available. Not unexpectedly, many took the plunge and broke the law, often for the first time in their lives,” Nitschke writes in his memoir.

Australian Customs reported 25 interceptions in 2009-10, rising to 64 in 2012-13, with 46 in 2013-14. Data obtained from coronial inquests parallel this trend with deaths involving pentobarbital products rising from six in 2002 to 24 in 2011, with 17 in 2012 — figures the National Coronial Information System warns may lift once outstanding cases are closed.

Buoyed by the enhanced availability of this new form of the drug, Nitschke has redoubled efforts to provide consumers with a mobile drug-testing service and a home test kit to confirm the purity of imported products. Questions of access, availability and potency absorb him more than the ethical dilemma of what happens if depressed young people get hold of the drug. Coronial figures reveal that 26 people under 40 died from Nembutal between 2000 and 2012.

His book insists Exit International takes every possible caution to prevent young people from getting information on Nembutal, but apart from screening attendance at his workshops, the online sphere is a world without checks. “As to whether young people might buy printed copies of our banned Peaceful Pill Handbook from Amazon in the US and import them illegally, or access the online version, both of which provide this information, we don’t know,” he writes. “Acquiring Nembutal is a time-consuming and expensive process that does not lend itself to rash, spur-of-the-moment actions.”

Tell that to the Waterman family. Joe took a mere 10 hours to complete his deadly transaction. When Joe’s aunt, Kathleen McGee, fired off a series of distraught emails to Exit International, Nitschke’s partner and co-convener of the organisation, Fiona Stewart, replied: “As way of explanation I would refer you to the remarks of distinguished lawyer Professor Bob Sedler. ‘In the US we have a way of protecting children from unsuitable online material at the receiving end — it is called parents.’”

Stewart asked McGee to “cease spamming” Exit. “We are very sorry about young Joe and we lament that your family were also deceived by him and, as those closest to him, were not able to help him. We are glad
however that you and the family did not have to confront the awful reality of a body hanging by rope in your garage or trauma inflicted on the public had he jumped in front of a train or from a tall building.”

Joe Waterman’s use of Exit’s *eHandbook* to secure Nembutal inflamed the furore over Nitschke’s role in the suicide of West Australian Nigel Brayley, 45, a healthy man under suspicion for murder, who imported the drug the same way. Brayley corresponded by email with Nitschke, admitting he did not have a terminal illness but “am suffering and have been now for some nine months”. Nitschke denies he had any obligation to refer Brayley to a psychiatrist, arguing he’d made a rational decision to end his life.

Nitschke’s handling of this case prompted the Medical Board of Australia to suspend his registration using emergency powers to protect “public health and safety”. An appeal hearing is scheduled to start on November 10 in Darwin, the city nominated by Nitschke as his principal place of practice for 25 years. He believes the Northern Territory is more sympathetic to his stand. The suspension is merely an interim step pending the outcome of ongoing probes by the board’s investigative arm, the Australian Health Practitioner Regulation Agency. Joe Waterman’s death is one of the matters before the agency.

In a separate strike, the NT branch of the Australian Medical Association will meet on November 11 to consider expelling him on the grounds that comments he made about Brayley on ABC-TV’s 7.30 show he failed in his duty as a doctor. “Nitschke doesn’t appear to have a competent understanding of depression and its effect on rationality,” says NT branch president Dr Robert Parker, a psychiatrist. “I don’t believe Brayley was rational.” Although the NT branch meeting will not touch on Joe Waterman, Parker says: “I have significant concerns about young people’s ability to access material about killing themselves. People are very vulnerable.”

This latest professional challenge to Nitschke targets his promotion of rational suicide, a highly contentious issue in medical and psychiatric circles. Stewart devoted her honours thesis in law to arguing that mental wellness and suicidal thoughts are not incompatible. Nitschke insists that depression “is used and misused to suggest mental incapacity. People bandy about depression as if that one word denies ability to make decisions.”

Although Nitschke has consistently opposed young people getting hold of
euthanasia drugs, he baulks at tighter controls to protect this small, vulnerable group. “You might weed out the Joes but slam the door on large numbers of 70-year-olds who want this drug as a way of improving their lives,” he says. Surely the ingenuity he invests in developing home test kits could be spent denying young people access to the eHandbook’s supply list? When I mention how easily Joe Waterman got his poison, Nitschke says: “Well, it’s not as easy as buying a rope. That is the -commonest method of suicide.”

He forwards me emails received from members of the Waterman family “to give some idea of what we’re dealing with”, as if their fury and grief were a nuisance. “They’re looking for someone to blame,” he says, arguing that suicide prompts families to search for a scapegoat rather than scrutinise their internal dynamics. “People don’t like doing that at all. They’d rather lash out at an easy source.” Nitschke often sounds callous and flip. In a 2001 interview he proposed “the so-called ‘peaceful pill’ should be available in the supermarket”; he once referred to young people who suicide with Nembutal as “collateral damage”.

Mary Waterman and her sister Kathleen McGee are holding Exit to account. They want existing laws upheld to prevent young adults buying Nembutal as easily as downloading songs on iTunes. “If there’s something we can do to restrict young kids getting the ‘peaceful pill’ we’ve got to stop it,” Mary says. “This is out of control.” Her sister has asked the Australian Federal Police to investigate a breach of the criminal law forbidding use of the internet to distribute suicide-related material.

When Nitschke was threatened with mandatory internet filtering in 2008 by Labor’s then communications minister Stephen Conroy, he harnessed “20-something geeks” to brief senior citizens with laptops and wi-fi modems in the art of hacking free from government interference. Technology aids and abets him. “The rationale seems to be if you keep people in the dark about death and dying they will live longer and happier lives … Quite the opposite is true. It is when you empower people with knowledge and restore choice that they live longer and happier lives.”

Nitschke never concedes an inch. Stewart told Joe’s family that the latest controversy has been a boon for Exit, writing: “Philip has been overwhelmed with messages of support, donations and new people joining Exit and buying the Peaceful Pill Handbook.” Nitschke crows that $170,000 has been crowd-funded to pay for his legal defence at the appeal hearing.

Nitschke first embraced voluntary euthanasia as a Darwin doctor who
campaigned for the Northern Territory bill that briefly legalised it in the mid-90s for the terminally ill. This law was overturned by a federal private member’s bill introduced by -current Social Services -Minister Kevin Andrews, then a backbencher in the Howard Government.

The struggle for reform has consumed Nitschke’s life. His position has changed over the years to a more radical stance. He’s moved away from medically controlled safeguards to a world where euthanasia drugs are routinely available for people over 55. “I believe that every rational adult should have access to a reliable, peaceful and lethal pill that one keeps at home,” he writes in his biography. “Use of this pill would only be considered when one finds that the quality of life is such that death is the preferred option. This is how it should be, how it could be.”

Determined to retain registration, Nitschke is preparing a defence with his pro-bono legal team while masterminding a Voluntary Euthanasia Party campaign in Victoria’s November election. Stewart is among the VEP candidates standing for seats in the Legislative Council. She confirms the Greens “think we are splitting the Left vote” but points to decades of polling that show conservative voters are most likely to support voluntary euthanasia. Victorian Liberals tried unsuccessfully to block the VEP’s registration. Nitschke has been on the stump before. He won almost 10 per cent of the primary vote when he stood against his nemesis, Kevin Andrews, for the Liberal seat of Menzies in 1998.

Around 80 per cent of Australians support voluntary euthanasia. But do they believe in rational suicide or a world where 25-year-olds can download a list of Chinese suppliers happy to furnish the means to a painless death? -Victorian Greens Senator Richard Di Natale, -formerly a doctor, has drafted a Dying With Dignity Bill to allow tightly regulated medically assisted death for the terminally ill and others afflicted by unbearable suffering.

Nitschke says he backs this “baby step” even though he remains philosophically opposed to medical gatekeepers deciding who has the right to die. Yet his provocative outrider stance risks sabotaging the fragile consensus around reform. Mary and Nick Waterman are not opposed to voluntary euthanasia but they recoil from his cavalier carriage of this cause.

Told by doctors in January that his -oesophageal cancer would kill him in three to nine months at most, former corporate high-flyer Peter Short, 57, became focused on dying in a way that has kept him alive beyond
-expectations. Ushering me inside his front door, he’s thin but buzzing with energy. “Time plays a critical role,” he explains of the decision to meet straight away. “I’d always rather do things yesterday than tomorrow. I don’t know any other way to live. To me there is no finish line. You keep moving.”

The modern suburban house he shares with his wife Elizabeth and son Mitchell, 22, has become de facto headquarters for the campaign to secure passage of Di Natale’s reform bill. He enlisted after Dr Rodney Syme of the law reform organisation Dying With Dignity spoke publicly about his role in assisting the death of a Victorian man stricken with oesophageal cancer.

Silver-haired, gently spoken Syme, 78, is a veteran advocate for medically assisted death to ease unbearable suffering, who parted company with Nitschke in 2002 over the “peaceful pill” solution. Syme wants doctors involved in these decisions whereas Nitschke champions a do-it-yourself approach. Short says he “fell in love” with Syme’s compassionate reasoning. Syme promises to give him the means for a painless, peaceful death at a time of his choosing. In return, Short vowed to invest his business expertise and social media skills in revving up noise for the Greens bill.

Using his blog and Twitter account he launched a petition that aims to collect one million signatures. His canny marketing brain revolutionised Dying With Dignity’s war room where the volunteers are older and technologically challenged. Syme doesn’t even own a mobile phone. Short hooked a class of marketing students at Melbourne’s RMIT campus into designing a public awareness campaign; he’s written to every federal MP begging their vote; he’s asked 300 ASX companies to take a stand or at the very least tip money towards a documentary tracking Short’s fight to his last breath.

“There’s only so much time,” he says, his occasional cough a reminder of the cancer spreading into his lungs. “I’ll go at it as hard as I can.” His phone rings. Filmmaker Jeremy Irvine, who’s shadowing every twist in this story, can wait. “I don’t know how long I’m going to live but getting into next year would be a highly unexpected outcome,” Short says of his mission’s urgency. If he dies before Di Natale’s bill begins its thorny passage through parliament, the documentary will amplify his plea from beyond the grave.

Short sees the bill, now in committee stage, as the first legislative step
towards choices that may eventually extend beyond the terminally ill to cater for people suffering from Alzheimer’s or dementia or a range of complicated situations. “Like the Berlin Wall, you take out the first brick rather than dismantle it at once,” he says.

“Philip Nitschke has done the country a huge disservice over the years with all his antics and pranks. He’s a fundamentalist around rights and freedoms and he’s telling people how they can kill themselves instead of starting from the point that incurably ill people who will die anyway should be given a means to manage their suffering, then elongating that conversation.”

Syme agrees: “The problem with making information on Nembutal so widely available is that it will get into the hands of people who are not rational.” He’s rattled by Joe Waterman’s death. “If someone is dying of cancer and dies two weeks earlier, most people would say fair enough. But if a 25-year-old, psychologically disturbed person uses the drug, naturally people get upset about it. He might have done it anyway. You can’t always stop people from suicide but we shouldn’t be making it easier. If you have to face a violent end it sometimes puts a brake on the urge to die.”

This question haunts Mary Waterman. “I’m not saying he still wouldn’t have done it but there was a chance he was starting to break. He was finding it harder and harder to keep it together. We could have had a chance to help if this peaceful method wasn’t so readily available. We might have seen it coming. I’d hate to think of him hanging himself but I don’t know if he would’ve done it in a violent way.” The rigorous verification required to authorise Joe’s death certificate mocks the ease of ordering his Nembutal with a click of a mouse. She will never stop wondering whether he might have lived if dying hadn’t been so simple.

*Lifeline’s 24-hour crisis support line: 13 11 14*