

Canberra Times

The end of a sad story - The death this week of Terri Schiavo revived the euthanasia debate

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TERRI SCHIAVO's case fascinated the public as much as medical ethicists, as the countdown to her death ended late this week.

It is a gruesome American story about a woman in a vegetative state, her husband's desire to end her so-called life, and her parents' desire to preserve it.

An ultra-conservative US Congress made a last-ditch legal challenge to keep Schiavo alive and the story has reignited the euthanasia debate across the globe.

In the ACT, the Schiavo case coincides with a quiet and calm review of the Powers of Attorney Act 1956.

The legislation, along with the Medical Treatment Act 1994, provides a legal framework for Canberrans to give direction - or to delegate to someone the power to make decisions - about their health and wellbeing in the case of potential incapacity.

While the review was prompted last year by an inquiry into elder abuse, Chief Minister Jon Stanhope said the issue could not be addressed in isolation from others relating to the whole scheme of powers of attorney and advance health-care directives - the number of which is increasing yearly in the ACT.

The review - the results of which are to be considered by Government in the near future - seeks to update the laws that give a spouse, family member or friend the right to make medical decisions on behalf of another, as well as the way these wishes are administered and enforced.

Deputy Public Trustee Doug Gillespie says the Schiavo case has highlighted the potential for families to clash over the ongoing medical care of a loved one.

The office of the Public Trustee oversees about 550 wills written each year as well as a couple of hundred powers of attorney. Gillespie says Canberrans of all ages need to consider a future in which they cannot make their own decisions.

"It is always going to be very difficult for any family to make the decision to turn off someone's life support," he says. "We all need to consider not only what we want to happen in unfortunate

circumstances but we also need to communicate this clearly [to] our families.

In any catastrophic health event, doctors play a guiding role. But according to Dr Tom Faunce, a senior lecturer in bioethics, health, law and human rights in the Australian National University's Medical and Law Schools, the Schiavo case may have significant repercussions for Australian doctors approaching long-term vegetative patients and their families.

"Previously in Australia doctors have been reluctant to go to court to get a ruling on withdrawing and withholding technically futile treatment, but the Schiavo case shows it is advantageous to get such a declaration, even if it might be an expensive and public process," Faunce says. "Increasingly as these sorts of moral issues become more politicised, I think we will see more doctors seeking directions from the courts."

He says Australia's critical-care system achieves a very high level of consensus between doctors and patients' families.

"In a good intensive-care unit, such as the one we have at the Canberra Hospital, clinicians repeatedly discuss the patient's condition, the chances of them ever making a recovery, and the options that are available with the family, so it usually doesn't become an issue."

Australia's legal approach is also slightly different from America's. Australia has relied on a British precedent in 1993 with the case of Anthony Bland, a young man left in a persistent vegetative state after being crushed in the Hillsborough football-stadium disaster. The case revolved around whether withdrawing life-prolonging treatment would be "in the best interests of the patient", and Bland's life support was switched off because it offered no reasonable prospect of his return to a meaningful quality of life.

The judges involved in court hearings of the Schiavo dispute, however, followed a substituted-judgment test. The courts tried to find convincing evidence of what the patient would have wanted. Schiavo's husband said she had told him she didn't want to be "kept alive on a machine". But she had not written a formal directive.

Like the office of the Public Trustee, Faunce thinks the Schiavo case has highlighted the need for people of all ages to consider whether they would like to be kept alive in a similar situation - and the levels of medical intervention they would consent to.

"Just as we declare our willingness to become an organ donor, we need to consider whether admitting-staff at a hospital should encourage patients to make an advance directive and further, rather than an advance directive attempting to guess which treatment should be appropriate, it may be more useful for it to specify the minimum level of quality of life that a patient would find meaningful," Faunce says.

He says such a clear statement would be useful for doctors trying to weigh up whether further treatment would be in the patient's best interests.

"For some currently healthy people, the minimum level of meaningful quality of life after an accident may involve merely feeling the sun on their faces even if they can't see, hear or speak, but others would specify the inability to communicate or to mobilise and care for themselves as being an unacceptable affront to their dignity. The question should remain one of individual preference within the margin of appreciation created by limited state resources."

Terri Schiavo had been in a vegetative state since her heart attack 15 years ago - her doctors arguing she had no frontal-lobe activity and no chance of thought or feeling. Her feeding tube, delivering nutrients and fluid, was withdrawn with the expectation she would starve or dehydrate to death. That she first entered her vegetative state after a heart attack, the consequence of an eating disorder, seems to have missed most commentators.