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978-1-107-03921-6 - Continuous Sedation at the End of Life: Ethical, Clinical and Legal Perspectives

Edited by Sigrid Sterckx, Kasper Raus and Freddy Mortier

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Continuous Sedation at the End of Life

Continuous sedation until death (sometimes referred to as terminal sedation or palliative sedation) is an increasingly common practice in end-of-life care. However, it raises numerous medical, ethical, emotional and legal concerns, such as reducing or removing of consciousness (and thus potentially causing ‘subjective death’), the withholding of artificial nutrition and hydration, the proportionality of the sedation to the symptoms, its adequacy in actually relieving symptoms rather than simply giving onlookers the impression that the patient is undergoing a painless ‘natural’ death, and the perception that it may be functionally equivalent to euthanasia.

This book brings together contributions from clinicians, ethicists, lawyers and social scientists, and discusses guidelines as well as clinical, emotional and legal aspects of the practice. The chapters shine a critical spotlight on areas of concern and on the validity of the justifications given for the practice, including in particular the doctrine of double effect.

SIGRID STERCKX is a professor of ethics at Ghent University and at the Vrije Universiteit Brussel (VUB) in Belgium.

KASPER RAUS is a postdoctoral researcher at Ghent University, Belgium.

FREDDY MORTIER is a professor of ethics at Ghent University, Belgium.

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Cambridge Bioethics and Law

This series of books was founded by Cambridge University Press with Alexander McCall Smith as its first editor in 2003. It focuses on the law's complex and troubled relationship with medicine across both the developed and the developing world. Since the early 1990s, we have seen in many countries increasing resort to the courts by dissatisfied patients and a growing use of the courts to attempt to resolve intractable ethical dilemmas. At the same time, legislatures across the world have struggled to address the questions posed by both the successes and the failures of modern medicine, while international organisations such as the WHO and UNESCO now regularly address issues of medical law.

It follows that we would expect ethical and policy questions to be integral to the analysis of the legal issues discussed in this series. The series responds to the high profile of medical law in universities, in legal and medical practice, as well as in public and political affairs. We seek to reflect the evidence that many major health-related policy debates in the UK, Europe and the international community involve a strong medical law dimension. With that in mind, we seek to address how legal analysis might have a trans-jurisdictional and international relevance. Organ retention, embryonic stem cell research, physician assisted suicide and the allocation of resources to fund health care are but a few examples among many. The emphasis of this series is thus on matters of public concern and/or practical significance. We look for books that could make a difference to the development of medical law and enhance the role of medico-legal debate in policy circles. That is not to say that we lack interest in the important theoretical dimensions of the subject, but we aim to ensure that theoretical debate is grounded in the realities of how the law does and should interact with medicine and health care.

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Indiana University

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MARGARET P. BATTIN is a professor of philosophy and medical ethics at the University of Utah, USA. She has authored, co-authored, edited, or co-edited some twenty books, including works on philosophical issues in suicide, case-puzzles in aesthetics, ethical issues in organised religion and various topics in bioethics. She has published two collections of essays on end of life issues, *The Least Worst Death* and *Ending Life*, and has been the lead for two multi-authored projects, *Drugs and Justice* and *The Patient as Victim and Vector: Ethics and Infectious Disease*. In 1997, Professor Battin won the University of Utah's Distinguished Research award, and in 2000, she received the Rosenblatt Prize, the University's most prestigious award. Her current projects include a comprehensive historical sourcebook on ethical issues in suicide, a volume of puzzle cases about issues in disability and a book on large-scale reproductive problems of the globe, including population growth and decline, teen pregnancy, abortion and male roles in contraception.

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He will be staying on at the University of Rochester as faculty with appointments in the divisions of General Medicine and Palliative Care.

EVELIEN DELBEKE specialises in healthcare law in the broad sense of the word (e.g. medical liability, medical disciplinary rules, professional legal advice, bioethical regulations, patient rights, and the like). From 2006 to 2011, she worked as a doctoral researcher in the field of health law at the Faculty of Law of the University of Antwerp, Belgium. In 2011, she obtained the degree of Doctor of Law with a dissertation on the legal aspects of end-of-life care, in which she examined the legal aspects of the various medical end-of-life decisions (euthanasia, ending of life without request, assisted suicide, alleviation of pain and symptoms with a possible life-shortening effect, continuous deep sedation at the end of life, and the withholding or withdrawing of life-sustaining treatment). She compared Belgian law with the laws of The Netherlands, France, Luxembourg, Switzerland, the USA and the UK. She was awarded the prize André Prims for her work. Dr Delbeke is a frequently invited lecturer on these topics. Since 2012, she has been an attorney-at-law with Monard-D'Hulst, a law firm specialising in health law.

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six months as Chief Medical Resident in the University at Buffalo Internal Medicine program.

SØREN HOLM is a medical doctor and philosopher who generally holds conservative views in relation to euthanasia, physician-assisted suicide and other forms of assisted dying. He is a professor of bioethics and medical ethics. Professor Holm directs the Centre for Social Ethics and Policy at the University of Manchester, UK, and holds permanent visiting chairs at the University of Oslo, Norway and the University of Aalborg, Denmark. He is the former Editor in Chief of the *Journal of Medical Ethics* and the current Editor in Chief of the journal *Clinical Ethics*.

RUTH HORN is an Ethics and Society Wellcome Trust Fellow at the Ethox Centre, University of Oxford, UK. She was awarded a BA in Sociology from Ludwig-Maximilian University Munich (2002), an MA in Sociology from Paris Diderot University (2003) and a Master of Research (2004) and Ph.D. (2009) from the Ecole des Hautes Etudes en Sciences Sociales, Paris. Her doctoral thesis examined the euthanasia debates and end-of-life practices in France and Germany. After conducting postdoctoral research about advance decision-making and discontinuation of life-sustaining treatments in France (funded by the French National Cancer League) at the Ecole Nationale Supérieure in Paris, Dr Horn completed a postdoctoral research project on advance directives in England and France (funded by the European Commission) at the University of Bristol. Her general research interest lies in exploring ethical questions raised by medical practices at the end of life, particularly regarding the tensions between respect for patient autonomy and physicians' duty to protect life. She is interested in understanding in which contexts (legal, cultural, socio-historical) these questions emerge in the public space, and how they are treated in the debates in specific countries (UK, France, Germany).

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JOHAN LEGEMAATE is a professor of health law at the Academic Medical Centre at the University of Amsterdam. Over the past twenty years he has been closely involved with legislation and policy concerning medical decisions at the end of life. He has published several national and international papers concerning euthanasia and related topics. Until 2010 he was the Chief Legal Counsel for the Royal Dutch Medical Association. In 2011–12 he was a member of the research team that carried out the evaluation of the Dutch Euthanasia Act.

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TIMOTHY E. QUILL is a professor of medicine, psychiatry and medical humanities at the University of Rochester School of Medicine and Dentistry. He is also Director of the Palliative Care Program in the Department of Medicine. Dr Quill has published and lectured widely about various aspects of the doctor–patient relationship, with special focus on end-of-life decision-making, including delivering bad news, non-abandonment, discussing palliative care earlier and exploring last-resort options. He is the author of several books on end of life, including *Physician-Assisted Dying: The Case for Palliative Care and Patient Choice* (2004), *Caring for Patients at the End of Life: Facing an Uncertain Future Together* (2001) and *A Midwife Through the Dying Process: Stories of Healing and Hard Choices at the End of Life* (1996), as well as numerous articles published in major medical journals. Dr Quill was the lead physician plaintiff in the New York State legal case challenging the law prohibiting physician-assisted death that was heard in 1997 by the US Supreme Court (*Vacco v. Quill*). Dr Quill received his undergraduate degree from Amherst College (1971), and his MD from the University of Rochester (1976). He completed his Internal Medicine residency in 1979 and a Fellowship

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in Medicine/Psychiatry Liaison in 1981, both from the University of Rochester School of Medicine and Dentistry. Dr Quill is a Fellow in the American College of Physicians, an ABMS certified palliative care consultant, and the immediate past-President of the American Academy of Hospice and Palliative Medicine.

KASPER RAUS holds an MA in Philosophy (Ghent University, 2008) and a Ph.D. in Philosophy (Ghent University, 2013). His current research focuses on the ethical issues surrounding end-of-life decisions in general, and continuous sedation at the end of life in particular. He has published various articles on this topic in international journals. Together with researchers from the End-of-Life Care Research Group of the Vrije Universiteit Brussel he is involved in an international qualitative research study on the experiences and attitudes of physicians, nurses and relatives concerning continuous sedation at the end of life. Broader aspects, for example the possible justifications of sedation in end-of-life care, are also being addressed by this study. This research is being conducted by a multidisciplinary team of researchers in Belgium, The Netherlands and the UK.

JUDITH A.C. RIETJENS works as an assistant professor at the Department of Public Health of Erasmus Medical Centre, Erasmus University Rotterdam, The Netherlands, and as a part-time professor at the End-of-Life Care Research Group of Ghent University and Vrije Universiteit Brussel, Belgium. She is a health scientist by training and completed her Ph.D. on end-of-life decision-making in 2006. She is involved in several local, national and international studies concerning end-of-life decision-making. She was awarded a VENI grant (Innovative Research Incentives for Academic Excellence) and an EUR fellowship. She coordinates the UNBIASED study, an empirical and ethical evaluation of the practice of continuous sedation at the end of life in The Netherlands, Belgium and the UK. Her other research interests include different perspectives on end-of-life decision-making (e.g. international comparisons; comparisons of perspectives of patients, relatives and healthcare professionals) and media representations of end-of-life decisions. In 2010 she was a visiting researcher at the Department of Geriatrics of Yale School of Medicine, New Haven, USA. Judith was selected to participate in the Erasmus MC Female Career Development Program. In 2010, she was granted the Young Investigator Award (2nd prize) of the European Association of Palliative Care, and in 2012 the UNESCO/L'Oréal For Women in Science fellowship.

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SIGRID STERCKX is a professor of ethics at Ghent University and at the Vrije Universiteit Brussel (VUB) in Belgium. She lectures on courses in Theoretical Ethics, Methods in Ethics, Contemporary Continental Ethics, Global Ethics and Environmental Ethics. Her current research focuses on: ethical aspects of medical decisions at the end of life; ethical aspects of biobanking, organ transplantation and patenting of human body material (particularly genes and stem cells); ethical issues regarding human enhancement; patent law (especially in Europe and the USA); and environmental ethics and governance, focusing inter alia on climate change, global and intertemporal justice. Sigrid has (co-)authored numerous book chapters as well as journal articles. She serves on various advisory boards and commissions, including the Belgian Advisory Committee on Bioethics, and works as an ethics consultant for several EU research projects. She is also a member of the Steering Group for the UNBIASED study, an interview study exploring the perspectives of physicians, nurses and bereaved informal caregivers on the use of continuous sedation until death for cancer patients in the UK, The Netherlands and Belgium.

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Saunders, is often regarded as the birthplace of the hospice movement and the specialty of palliative care. It has both inpatient and community palliative care services, and looks after about 2,000 terminally ill people each year. Dr. Sykes' principal research interests concern gastrointestinal and end-of-life symptom management in palliative care, subjects on which he has written extensively. He is a past winner of the Evans Prize for Research in Palliative Medicine. He also teaches widely both in the UK and abroad. Previously a member of the Executive and Ethics committees of the Association of Palliative Medicine of Great Britain and Ireland, Dr. Sykes is currently a member of the Neurological Diseases Strategy Group of the UK National Council for Palliative Care. He set up the first clinical ethics committee to be located in a hospice and has spoken on television and radio, and made presentations to British parliamentary committees, on ethical issues relating to palliative care.

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Obviously, we also want to thank all the contributors to this volume for writing their insightful chapters, for the positive and constructive attitude they have shown throughout the editorial process, and for never complaining about the tight deadlines that we sometimes imposed on them. Being able to bring together so many fascinating analyses and ideas from so many reputable experts on the topic, from so many different disciplinary and geographical backgrounds, has been a truly exciting intellectual adventure for us.

Sigrid Sterckx would like to thank her parents Marie-Louise and Wilfried, as well as her twin brother Wouter and his partner Fabienne, for their continuous encouragement and moral support.

Kasper Raus is grateful to his family, especially to his wife Leonie Krekels, for providing loving support and understanding for all the days and nights he spent working on this volume. He also owes a great debt of gratitude to his daughter, Martha. Though she may not yet realise it, she has helped him greatly by providing a smile whenever he needed one.

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