沒有「安樂死」之名的「安樂死法」 一簡評 2016年「病人自主權利法」

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關鍵詞:病人自主、安樂死、善終、安寧緩和、加工自殺

Keywords: Patients' Self-Determination; Euthanasia; Peaceful Death; Hospice Palliative Care; Emergency Obligations; Assisted Suicide

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摘 要

甫通過的「病人自主權利法」開啟了屬「非」末期病人的植物人、漸凍 人、重度失智症患者與罕見疾病者「安樂死」的「合法途徑」。鑒於醫學「維 生介入」的技術的重大發展,卻使病人「痛苦」的「推延死亡」,該法致力於 「善終權」的立法確認方向,應予贊同。然或為避免「安樂死」的爭議或掩護 其過關,該法不顧現行醫療法就「病人自主權」已有所相當規定,以及安寧緩 和醫療條例已就末期病人的「善終」問題已有相當規範,一心只想別立「病人 自主權利法」,卻無視其自身根本漏洞百出,且製造將來法律適用上的無端困 擾。再者,其有心或無意混淆既有的「病人自主權」和「善終權」的概念,片 面只考慮病患「好走」,不顧「道德上的風險」,以及偏頗將「法律風險」轉 嫁於醫事人員,拒絕將「醫療義務解除」和「司法裁定事先介入」入法,使該 法已陷入「尚未施行,即應修法」的困局。這樣的「病人自主權利法」,令人 實在難以想像其如何順利施行。

An Euthanasia-A Brief Comment on the Patient's Self-determination Right Act, Taiwan, 2016

Yat-Che Cheng, Chao-Jung Shih

Abstract

The major development of life support system intervention in medical techniques always results in incurable patients suffering from prolonged and painful death. The Legislative Yuan has passed the "Patient Self-determination Act", allows legal "euthanasia" for cases of terminally-ill patients, such as the patients in a vegetative state, with motor neuron diseases, severe dementia and rare diseases. The legislation of this Act is committed to confirm patients' hospice rights and this should be endorsed.

Although, there has been considerable requirements in current health care law on patient's autonomy and the Hospice Palliative Care Regulation for the terminally-ill patients. However, in this Act, law maker tried to avoid dispute over "euthanasia" issues by ignoring its fundamental flaws. This is going to cause endless trouble in the future on the applicable law. Furthermore, confusing the concept of patients' autonomy with hospice rights by only focusing on patients' peaceful death, regardless of moral hazard and judicial process, will transfer legal risks to the medical staffs.