

The Morrison ruling: the case may be closed but the issues it raised are not

Nancy Robb

In brief

A JUDGE'S DECISION TO DISMISS MURDER CHARGES against a Halifax physician charged with killing a patient was a great relief for Dr. Nancy Morrison, who was arrested last May, but the ruling does little to ease physicians' concerns in this area. Toronto ethicist Peter Singer says doctors have only one way to proceed: cautiously.

En bref

LE D^R NANCY MORRISON, MÉDECIN DE HALIFAX ACCUSÉE en mai dernier d'avoir tué un patient, a été grandement soulagée d'apprendre la décision du juge qui a rejeté l'accusation de meurtre. La décision ne fera toutefois pas grand-chose pour dissiper les préoccupations des médecins à cet égard. Peter Singer, éthicien de Toronto, affirme qu'il n'y a qu'une seule façon d'agir pour les médecins : avec prudence.

Halifax respirologist Nancy Morrison may no longer face murder charges but physicians say the case still raises many questions about the care Canada's dying patients receive.

Morrison was arrested and charged with first-degree murder in Halifax in May 1997. Police alleged that she has injected a terminally ill cancer patient at the Queen Elizabeth II Health Sciences Centre with potassium chloride in November 1996 (see *CMAJ* 1997;157:757-62).

At the end of a preliminary hearing in February, a Halifax provincial court judge dismissed the charges against Morrison, ruling that there was insufficient evidence to show that potassium chloride had caused the death of 65-year-old Paul Mills, who was experiencing severe infection after several operations for throat cancer and had been taken off life support. At this writing Crown prosecutors had yet to decide whether to challenge the ruling, although they had intimated they might when the ruling was handed down; the College of Physicians and Surgeons of Nova Scotia has yet to review the case.

Meanwhile, the judge's decision sent waves of relief through Dalhousie University medical school, where Morrison is a faculty member, and the QE II, where she sees patients in an outpatient clinic.

"Many people were personally very happy for Dr. Morrison that she is not facing criminal charges over this affair," says anesthetist Keith Hamilton, vice-president of medical services at the QE II. "People felt that now that this matter is removed from the criminal arena we might be able to discuss it and society might be able to address the issues in a way that might be more productive."

Although it is now on the mend, Hamilton says Morrison's arrest hurt morale among QE II staff and undermined patient confidence in intensive care provided at the hospital. However, one positive thing may emerge from the case. Hamilton hopes it leads to a better understanding of "the appropriate guidelines or best practices" that are to be used in caring for dying patients so that "individuals won't be put into situations where they feel they have to make decisions in the absence of guidance and support. . . .

"We are building up too many individual cases in this country and we still haven't come up with an overall societal approach to this. I think that is wrong."

So does Dr. John Ruedy, Dalhousie's dean of medicine. He says the Morrison case highlights the need for public input into "the ethical issues surrounding end-



Features

Chroniques

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of-life decisions. . . . The medical and nursing professions cannot be left on their own to interpret public values.”

But he fears the Morrison case will be “just another blip on the screen” and the public and politicians will “lapse back into inactivity. There are no political gains for anyone to provide leadership.”

Even the lesson the case offers to physicians dodges the ethical issues of using a potentially fatal substance “after other efforts to ease pain and suffering have failed. Unfortunately the message given locally and in general throughout intensive care units in Canada is be very wary of any action that you take because you may end up with actions you had never contemplated.”

Toronto ethicist and internist Peter Singer thinks that’s a message doctors should heed. “Democracy doesn’t grow from the needle of a syringe,” he says. “None of us really have the right to take the law into our own hands.”

Singer, who has “a lot of sympathy for Nancy Morrison,” says there’s a risk the Halifax decision might lead some doctors to “assume that injecting potassium chloride and making people dead is OK. It’s not OK. It’s currently illegal and whether or not it should be legal is a separate question and that’s what democracy’s for.”

Even though “the Criminal Code is inadequate to deal with these cases,” he says any doctor tempted to use potassium chloride on compassionate grounds should remember that it can attract a charge of first-degree murder, which carries a minimum 25-year sentence.

Singer says physicians should not get tied up in the “legal technicalities” of the Morrison case and also avoid getting sidetracked by the euthanasia debate, which it rekindled. Instead, doctors should “redouble” their efforts in caring for terminal patients and their families.

“The fact of the matter is there are people dying in Canada now either in pain or with uncontrolled symp-

toms or hooked up to life-sustaining treatments they don’t want to be hooked up to,” he says. “The average Canadian is afraid of that scenario, and those are the fears we need to respond to.

“We’ve got the ethical and legal tools in place to respond to them and all we have to do is respond. If we get distracted . . . by the debate over whether we should legalize euthanasia, we’re not going to be able to focus on improving the quality of care of dying patients.”

Dr. Athol Roberts agrees. Roberts, a past president of the CMA, applauds the outcome of Morrison’s preliminary hearing and

congratulates the judge for his “compassionate and humane” decision.

“There was a bit of compensation given for this woman to know that he could broaden his mind to interpret her motives,” he says, “and her interpretation of her duty of care at that point was to relieve her patient’s suffering.”

Roberts, a family physician and anesthetist from Prince Edward Island, is opposed to euthanasia. “But you deal with each circumstance as you find it,” he says. “I’m sure Nancy Morrison had a strong sense of her duty of care for this person whom the nurses and physicians found extremely difficult to manage at this point in his pain.”

But Roberts says patients’ requests for suicide and mercy killing would “wither away if we could do more as physicians and more as a society on the realization of the fact of death. Not all death is horrendous, not all death is a horrible scene. Death can be gentle and quiet.

“This could happen in so many instances if we could get a proper handle on palliative care and provide equal access to people across the country. . . .

“If anyone is trying to give people a nudge,” he says of the Morrison case, “the nudge should be towards [beginning] to do palliative care in the best possible way.” ?

“Democracy doesn’t grow from the needle of a syringe.”

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