IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2012 005406

FINDING INTO DEATH WITH INQUEST

Form 37 Rule 60(1)
Section 67 of the ***Coroners Act 2008***

Inquest into the death of LAWRENCE STEELE BILLING

Delivered on:	2 May 2014
Delivered at:	Coroners Court of Victoria Level 11, 222 Exhibition Street Melbourne, Victoria
Hearing dates:	2 May 2014
Findings of:	Coroner Paresa Antoniadis SPANOS
Assisting the Coroner:	Leading Senior Constable Amanda MAYBURY, from the Police Coronial Support Unit, assisted the Coroner.

I, PARESA ANTONIADIS SPANOS, Coroner,
having investigated the death of LAWRENCE STEELE BILLING
and having held an inquest in relation to this death on 2 May 2014
in the Coroners Court of Victoria at Melbourne

find that the identity of the deceased was LAWRENCE STEELE BILLING
born on 10 March 1955, aged 57
and that the death occurred on 28 November 2012
at the Monash Medical Centre, 246 Clayton Road, Clayton, Victoria 3168

from:

I (a) TYPE 2 RESPIRATORY FAILURE SECONDARY TO ASPIRATION PNEUMONIA

in the following circumstances:

1. Mr Billing was a 57-year-old man who had a history of trisomy 21 (Down syndrome), dementia, seizures, transient ischaemic attacks, gastro-oesophageal reflux disease, depression, Hepatitis B carrier state, chronic urinary retention necessitating a permanent supra pubic catheter and aspiration pneumonia. He had lived in the care of the State for his entire life.
2. Mr Billing had resided in a Department of Human Services (DHS) residential care facility at Mount Waverley from 2007, following a single laminectomy operation after a fall at his previous facility. This significantly impacted on his mobility and left him dependant on the use of a wheelchair.
3. The DHS facility at Mount Waverley was a disability group home, where Mr Billing lived with three other men, was provided with 24-hour active staff support. The home was described by the facility's operational manager, Mr Wayne Hargreaves, as 'a high physical and medical needs home' where '[a]ll of the residents have complex needs'.[1]
4. Mr Billing was involved in a day program at Bourke and Beyond in Canterbury, where he attended day trips and various activities. According to Mr Hargreaves, Mr Billing's health began to deteriorate in March 2012, and at about this time, a decision was made to stop sending him to the program due to difficulties arising from his dementia and his increasing levels of confusion.

[1] Statement of Mr Wayne Hargreaves, Inquest Brief at p 4.

5. An individualised support package (ISP) was introduced in order to allow external services to visit Mr Billing to support him. The ISP took place for about four hours per day, three times a week. Mr Billing spent the rest of his time at the residential care facility with staff doing various activities.

6. Mr Billing was assessed by a speech pathologist as being at risk of aspiration, and a mealtime food profile was created which directed that his food be pureed.

7. As Mr Billing's health was deteriorating, Mr Hargreaves made the decision to apply for a health guardian to make decisions about Mr Billing's clinical management and care and Mr Errol Jaquierry was accordingly appointed as Mr Billing's advocate.

8. On 26 November 2012, Mr Billing had breathing difficulties, was vomiting and refused to eat or drink. Facility staff called an ambulance and he was transported to the Monash Medical Centre (MMC) emergency department.

9. Mr Billing was admitted to the ward at 7.25pm with a provisional diagnosis of aspiration pneumonia. He was treated with antibiotics and a continuous positive airway pressure (CPAP) mask to assist his breathing, but showed no improvement. Mr Billing was then trialled on a BiPAP machine to assist breathing, but the trial was unsuccessful.

10. Mr Billing was admitted to the acute assessment unit on 27 November by medical registrar Dr Jillian Lua, with a diagnosis of type 2 respiratory failure. He was reviewed later in the day by medical registrar Dr Chow. It was determined that Mr Billing's prognosis was poor and, after consultation between the MMC medical team and Mr Jaquierry, a decision was made to treat Mr Billing palliatively, and a 'not for resuscitation' order was put in place. Monitoring and active treatment was ceased and Mr Billing was kept comfortable until he was pronounced deceased by resident medical officer Dr Megan Brown at approximately 12.00am on 28 November 2012. Carers from the facility stayed with Mr Billing until his death. Dr Brown also reported Mr Billing's death to the Coroner, as she was aware that he was living in a DHS facility at the time of his death.

11. Apart from a jurisdictional nexus with the State of Victoria, reportable deaths are, generally, deaths that appeared to have been unexpected, unnatural or violent or to have resulted, directly or indirectly, from an accident or injury. However, some deaths are reportable irrespective of the nature of the death, based on the status of the person immediately before death. Mr Billing's death was reportable as he was a person under the control, care or custody of the Secretary to the DHS.[2] This is one of the ways in which the *Coroners Act 2008* recognises that

[2] See section 3 for the definition of a "person placed in custody or care" and section 4(2)(c) of the definition of "reportable death".

people in the control, care or custody of the State are vulnerable, and affords them the protection of the independent scrutiny and accountability of a coronial investigation.

12. Another protection is the requirement for mandatory inquests. While there is a discretionary power to hold an inquest in relation to any death a coroner is investigating,[3] this was a mandatory or statutorily prescribed inquest as Mr Billing was, immediately before death, a person placed in custody or care.[4]

13. This finding draws on the totality of the material the product of the coronial investigation of Mr Billing's death, contained in the inquest brief compiled by Constable Georgia Williamson. All this material, together with the inquest transcript, will remain on the coronial file. In writing this finding, I do not purport to summarise all evidence, but refer to it only in such detail as appears warranted by its forensic significance and the interests of narrative clarity.

14. Mr Billing's identity, the date, place and medical cause of death were never at issue. I find, as a matter of formality, that Lawrence Steele Billing born on 21 10 March 1955, aged 57, late of 86 Lemont Avenue, Mount Waverley, Victoria 3149 died at the Monash Medical Centre, 246 Clayton Road, Clayton Victoria 3168 on the 28 November 2012.

15. Nor was the medical cause of death contentious. No autopsy was performed, as Senior Forensic Pathologist Dr Matthew Lynch from the Victorian Institute of Forensic Medicine (VIFM), conducted an external examination of Mr Billing's body in the mortuary, reviewed his medical records and the police report of death to the coroner, and provided a written report of his findings. Dr Lynch concluded that it would be reasonable to attribute Mr Billing's death to *type 2 respiratory failure secondary to aspiration pneumonia*, without the need for autopsy. Dr Lynch commented that post mortem CT scanning revealed bi-basal pulmonary consolidation, calcific coronary artery disease and cerebral atrophy. He noted that there were no issues identified on the medical deposition as needing to be addressed at autopsy.

16. The focus of the coronial investigation of Mr Billing's death was on the adequacy of clinical management and care provided to him in relation to the last months of his life. No concerns about clinical management and care were mentioned in the initial police report of Mr Billing's death to the Coroner,[5] nor were any such concerns raised with the Court by Mr Jaquierry or any other person, Mr Billing having no remaining family.

17. Mr Hargreaves' statement verified the supports in place for Mr Billing, which included the assistance of a speech pathologist, neurologist, psychologist, urologist and nursing service.

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[3] Section 52(1) provides that a coroner may hold an inquest into any death that the coroner is investigating.

[4] Section 52(2) and the definition of "person placed in custody or care" in section 3, in particular paragraph (d) thereof – "a person under the control, care or custody of the Secretary to the Department of Human Services.

[5] Victoria Police Form 83 dated 28 November 2012.

His medications were detailed in his treatment sheet, and he was prescribed anti-epileptics, psychotropics, vitamins and laxatives as well as heart and thyroid medications.

18. Mr Hargreaves also explained that in March 2012 it became apparent that Mr Billing's health was deteriorating significantly, hence the decision to appoint Mr Jaquierry as a guardian to oversee clinical decisions, in apprehension that end of life planning and/or a decision to treat Mr Billing palliatively was envisaged in the near future.

19. I find that Mr Billing died from type 2 respiratory failure secondary to aspiration pneumonia with contribution from a number of underlying medical problems, namely general debility, Down syndrome, dementia and chronic urinary retention. The evidence before me reflects a high level of care, appropriate assessment and treatment and appropriate involvement of Mr Billing's advocate in decision-making and palliative care. The available evidence does not support a finding that there was any want of clinical management and care on the part of the staff of the residential facility or the medical and nursing staff of the MMC, or that any such want of clinical management or care caused or contributed to his death.

I direct that a copy of this finding be provided to the following:

Ms Diana Whittle, State Trustees

Monash Health, c/o Ms Susan Van Dyk

Mr Wayne Hargreaves, Operational Manager, DHS (Eastern) Disability Accommodation Services

Ms Katie Haire, Deputy Secretary, Community and Executive Services Group, Department of Human Services

Constable Georgia Williamson, Oakleigh Police Station

Leading Senior Constable Amanda Maybury, Police Coronial Support Unit.

Signature:

PARESA ANTONIADIS SPANOS
CORONER
Date: 2 May 2014