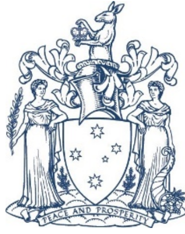

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2019 002709

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)
Section 67 of the ***Coroners Act 2008***

Findings of:	Coroner Paresa Antoniadis Spanos
Deceased:	Resel Juerchott
Date of birth:	19 October 1959
Date of death:	28 May 2019
Cause of death:	1(a) Aspiration pneumonia in the setting of Down's syndrome
Place of death:	Heidelberg, Victoria

INTRODUCTION

1. On 28 May 2019, Resel Juerchott was 59 years old when she died at The Austin Hospital. At the time, Ms Juerchott lived at a Department of Health and Human Services (**DHHS**) group home (**the group home**) at 11 Bailey Avenue, Preston, that catered to adults with complex medical disabilities.

2. Ms Juerchott had a medical history of Down's syndrome, intellectual disability, blindness, epilepsy[1] and advanced Alzheimer's dementia. She also had dysphagia (difficulty swallowing) and was limited to eating smooth, pureed foods and thickened drinks, which could only be served when she was sitting upright to avoid developing aspiration pneumonia.

3. According to the group home manager Kelli Meadows, Ms Juerchott was non-verbal and could not communicate that she was in pain or discomfort but could vocalise to signal that she was unhappy about something. She required assistance with all activities of daily living.

4. Ms Juerchott had lived in a variety of facilities and moved to the group home in Preston in late 2018 when her needs increased significantly. As Ms Juerchott's dementia triggered epilepsy, and in the context of Down's syndrome, she required 24-hour care in case of night-time seizure activity. However, under the care of a neurologist, Ms Juerchott had been relatively seizure free for some months prior to her death.

5. In the six months immediately preceding her death, Ms Juerchott's was noted to be declining functionally. Her dementia caused a rapid decline in her mobility and she always required a wheelchair and a hoist to move around. During the six month period, Ms Juerchott was admitted to hospital on several occasions after becoming drowsy and unresponsive but despite investigations in the emergency department, no cause was identified.

THE CORONIAL INVESTIGATION

6. Ms Juerchott's death was reported to the Coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (the Act). Generally, reportable deaths are those deaths which are unexpected, unnatural or violent or result from accident or injury. However, in the case of a person such as Ms Juerchott who was placed in care immediately before death, the death is reportable irrespective of the cause of death, even if it is a death from natural causes.[2]

[1] Ms Juerchott suffered frequent tonic clonic seizures, had been admitted to hospital with status epilepticus and had poorly controlled myoclonic jerks.

[2] Section 4(2)(c) of the Act.

7. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death, and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.

8. Under the Act, coroners also have the important functions of helping to prevent deaths and promoting public health and safety and the administration of justice through the making of comments or recommendations in appropriate cases about any matter connected to the death under investigation.

9. This finding draws on the totality of the coronial investigation into the death of Ms Juerchott including evidence contained in the coronial brief, medical records from Austin Health and Dundas Street Medical Clinic, the e-medical deposition from The Austin Hospital and a letter from the Disability Services Commissioner summarising their investigation. Whilst I have reviewed all the material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity. In the coronial jurisdiction, facts must be established on the balance of probabilities.[3]

Identity of the deceased

10. On 29 May 2019, Resel Juerchott, born 19 October 2019, was visually identified by Kelli Meadows, the manager of the DHHS group home where she resided, who signed a formal Statement of Identification to this effect.

11. Identity is not in dispute and requires no further investigation.

Medical cause of death

12. Forensic Pathologist Dr Melanie Archer from the Victorian Institute of Forensic Medicine (**VIFM**), conducted an examination of Ms Juerchott's body in the mortuary on 30 May 2019 and provided a written report of her findings dated 2 June 2019.

13. Dr Archer advised that post-mortem computed tomography scans of the whole body showed a metopic suture and an atrophic brain. There were degenerative spinal changes, a fatty liver

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[3] Subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

and increased lung markings (especially bi-basally). External examination showed features consistent with the known history of Down's syndrome and no evidence of injury of a type likely to have caused or contributed to death.

14. Dr Archer commented that epilepsy in the setting of Alzheimer's dementia is a common outcome of Down's syndrome and that these conditions create a high risk for aspiration, with resultant pneumonia.

15. Dr Archer provided an opinion that the medical cause of death was 1 (a) Aspiration pneumonia in the setting of Down's syndrome and was due to natural causes.

16. I accept Dr Archer's opinion and the formulation of the cause of death.

MATTERS IN RELATION TO WHICH A FINDING MUST, IF POSSIBLE, BE MADE

Circumstances in which the death occurred

17. On the morning of 22 May 2019, Ms Juerchott became less responsive and drowsy, and once again, an ambulance was requested. Ambulance Victoria paramedics responded and, on examination, found all of Ms Juerchott's vital signs were normal. However, as they could not find a cause for her symptoms, they transported Ms Juerchott to the Austin Hospital. Ms Juerchott was accompanied by a 'hospital pack', which listed all her medical, manual handling and personal care needs in the form of plans signed by her general practitioner, occupational therapists and neurologist.

18. Blood tests, urine microscopy, cultures, a chest x-ray and a computed tomography scan of the brain were conducted. Ms Juerchott's examination was unremarkable with no signs or focus of infection identified. Based on the history, examination and investigations, the clinical impression was of end-stage dementia with a possible occult infection.

19. Transfer documents from the group home indicated that Ms Juerchott had no family. As her carers were not able to consent to medical treatment on Ms Juerchott's behalf, the Office of the Public Advocate became involved. Ultimately, a medical decision was made that limitation of treatment to comfort measures alone would be in Ms Juerchott's best interests[4] and she was nursed on the ward.

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[4] Meaning Ms Juerchott was not for cardiopulmonary resuscitation, intubation, non-invasive ventilation, intensive care unit admission or vasopressors/inotropes. Comfort measures would be employed if she deteriorated further.

20. On 26 May 2019 Ms Juerchott was more drowsy than usual and had become hypoxic. On review, it was thought that her hypoxia was due to aspiration of vomit. Thereafter, Ms Juerchott was kept 'nil by mouth' until a speech pathologist could review her and a chest x-ray was ordered.

21. The next day, Ms Juerchott became increasingly tachycardic, was in respiratory distress and was increasingly drowsy. The decision was then take to commence palliative care and Ms Juerchott was kept comfortable until she passed away late in the evening on 28 May 2019.

REVIEW BY THE DISABILITY SERVICES COMMISSIONER

22. On 14 June 2019 the Disability Services Commissioner (DSC) commenced an investigation pursuant to section 1281 of the *Disability Act 2006* into disability services provided by DHHS to Ms Juerchott.

23. The DSC finalised their investigation and made no findings. Under cover of letter dated 23 December 2020 the DSC advised the Coroners Court that they considered the disability service provision delivered to Ms Juerchott was provided in a manner that broadly promoted her rights, dignity, well-being and safety. The DSC did not document any concerns with the provision of services to Ms Juerchott by DHHS.

FINDINGS AND CONCLUSION

24. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:

    (a) the identity of the deceased was Resel Juerchott, born 19 October 1959;

    (b) Ms Juerchott's death occurred on 28 May 2019 at the Austin Hospital, Heidelberg, Victoria 3084;

    (c) Ms Juerchott died from natural causes, namely aspiration pneumonia in the setting of Down's syndrome; and

    (d) the death occurred in the circumstances described above.

Pursuant to section 73(1B) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.

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

The Proper Officer, State Trustees, Victoria

The Proper Officer, Office of the Public Advocate

Disability Services Commission

Department of Health

Senior Constable B McPherson (#37305), Coroner's Investigator

Signature:

Paresa Antoniadis Spanos

Coroner

Date: 26 March 2021

NOTE: Under section 83 of the ***Coroners Act 2008*** ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an investigation. An appeal must be made within 6 months after the day on which the determination is made, unless the Supreme Court grants leave to appeal out of time under section 86 of the Act.