



Recent Developments in Physician-Assisted Suicide

June 1999

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LITIGATION

1. *Kevorkian v. Thompson*, 947 F.Supp. 1152 (E.D. Mich. 1997), appeal dismissed (6th Cir. No. 97-1094). Dr. Kevorkian and Janet Good filed suit asking for an injunction forbidding prosecutors in three counties from using Michigan's temporary criminal statute to prosecute various assisted suicides that occurred during 1992 and 1993. On 1/6/97, U.S. District Judge Gerald Rosen ruled against the plaintiffs, finding that: (1) the court should abstain under *Younger v. Harris* from deciding Dr. Kevorkian's claims because they could be raised by him in defending actions pending against him in state courts, (2) Janet Good had no constitutional right to assisted suicide under the Fourteenth Amendment, and (3) Michigan laws regarding assisted suicide were unconstitutionally vague prior to December 1992, when a state criminal statute was enacted. On 12/15/98, the pending appeal to the Sixth Circuit Court of Appeals was voluntarily dismissed.

Sampson v. Alaska

committee, effectively killing the bill; on 2/19/99, members of the Senate Health and Human Services Committee

(5) All but one of the 21 patients received prescriptions for nine grams of a fast-acting barbiturate, either secobarbital or pentobarbital.

(6) Median time from taking the medication to unconsciousness was five minutes (range = 3-20 minutes).

(7) Median time from taking the medication to death was 26 minutes (range = 15 minutes to 11.5 hours). Four patients died more than three hours after taking the medication. The patient who took 11.5 hours to die fell asleep five minutes after taking the medication.

(8) No complications (such as vomiting or seizures) were reported by any physician.

(9) No patient who chose physician-assisted suicide voiced concern to their physician about the financial impact of their illness, and only one expressed concern about end-of-life pain.

(10) A total of 14 physicians wrote prescriptions for the 15 patients who died by physician-assisted suicide. These physicians represented a wide range of specialties, ages, and years in practice.

(11) Six patients who chose physician-assisted suicide had requested lethal medications from one or more providers before finding a physician who would participate.

(12) All physician reports were in full compliance with the law.

Comparison studies with two control groups showed that age, race, sex, and Portland metropolitan residence status did not predict participation in physician-assisted suicide. Patients who chose physician-assisted suicide were not disproportionately poor, lacking in insurance coverage, or lacking in access to hospice care. However, persons who were divorced and persons who had never married were more likely to choose physician-assisted suicide than persons who were married. In addition, patients who chose physician-assisted suicide were much more likely than controls to express concerns about loss of autonomy and loss of control of bodily functions. Physiciana9(ntr16.6(th)-aia Tc[w)20.7(h)1.3(o)-5.96= a12(s(o)-5.9680

held hearings during May 1999 about the Oregon Health Plan's coverage of expenses related to physician-assisted suicide. Subcommittee chair Senator Eileen Quibben is seeking to overturn the decision of the Oregon Health Services Commission to include physician-assisted suicide. On 12/17/98, the 30-member Task Force on Pain and Symptom Management issued a report making recommendations to Oregon's governor and the 1999 legislature on treatment of chronic pain. The following legislation has been introduced in the 1999 legislature as a result of the Task Force's recommendations: SJR 28 (directs health-related state agencies and encourages health care professionals to support rights of persons with pain), SB 1027 (creates Uninsured Access to Hospice Program), SB 1140 (creates Pain Management Demonstration Projects in one rural area and one urban area), SB 1141 (establishes Pain Management Advocate within Oregon Department of Human Resources), and HJR 62 (declares support for persons suffering from chronic pain, encourages medical teaching facilities to increase training in chronic pain management, and encourages Board of Medical

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hours a day, require federal health programs to make pain treatment a priority, direct the surgeon general to report by October 2000 on the state of pain management in the United States, create an 11-member advisory committee on pain and symptom management, and convene a national conference under the auspices of the National Institutes of Health. Oregon Representative Darlene Hooley was expected to introduce companion legislation in the House.

OTHER NATIONAL DEVELOPMENTS

suicide. A second poll of 200 blacks and 100 Hispanics in Kent and Ottawa Counties showed that 68% of blacks, 63% of Hispanics, and 59% of whites were opposed to assisted suicide.

2. Oregon

Dr. Gallant



more frequent than decisions to withdraw life support (reported by 21%).

(3) Conclusions. Based on these two studies, researchers concluded that Oregon's record of low in-hospital death rates and high patient satisfaction with the location of death was attributable in part to the wide array of end-of-life resources available in Oregon (including hospice and adult foster homes) and to the standard practice of specifically asking about treatment preferences at the time of admission into a long-term care facility or home hospice program.

- g. Alan Meisel, Jan C. Jernigan & Stuart J. Youngner, *Prosecutors and End-of-Life Decision Making*, 159 *Archives Internal Med.* 1089 (1999) [survey of 761 prosecutors nationwide revealed that most would not prosecute in three less-controversial end-of-life scenarios; in fourth scenario involving physician-assisted suicide, only 39.1% would prosecute, 36.3% would not, and 24.6% were undecided; two-thirds believed that physician-assisted suicide would be morally correct in the fourth scenario, and 78.8% would want such assistance if they were in the patient's position; 45.9% favored legislation allowing physician-assisted suicide and 33.4% favored legislation allowing active euthanasia].

INTERNATIONAL DEVELOPMENTS

1. Australia

Canada

- a. Dr. Morrison. Dr. Nancy Morrison was charged in May 1997 with first-degree murder in connection with the death on 11/10/96 of patient Paul Mills, reportedly from a lethal injection, in the intensive care unit at the Queen Elizabeth II Health Sciences Centre in Halifax. Although the criminal charge was later dismissed, the College of Physicians and Surgeons of Nova Scotia formally reprimanded Morrison on 3/30/99 for acting outside the accepted standards of medical care. Morrison accepted the reprimand rather than wait several months for a lengthy public hearing and face up to \$175,000 in attorney fees.

Latimer prosecution. On 11/5/97, a jury convicted Robert Latimer of second-degree murder for the mercy

not prosecute physicians who perform active euthanasia at the express request of an incurable patient in the terminal stages of illness and suffering intolerable pain.

* Some information obtained from media reports has not been independently verified.