

## RECENT DEVELOPMENTS IN PHYSICIAN-ASSISTED DEATH

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**\*NOTE:** The title of this report uses the term “physician-assisted death” instead of “physician-assisted suicide” for the first time. The reasons for this change are described below under “National Developments.” The report continues to use the term “physician-assisted suicide” when that term appears in the original source. The address and title of this website remain unchanged for ease in accessing the site.

### LEGISLATION

#### Arizona

Physician-assisted suicide and advance directive to control suffering. In January 2007, Representative Linda Lopez and eight other Democrats introduced HB 2572, which is similar to the Oregon Death with Dignity Act. On the same date, they also introduced HB 2357, which would amend Arizona’s advance directive statutes so that a person could indicate a desire to control suffering in the event of terminal illness by obtaining a prescription for lethal medication; the advance directive would have to be executed at least three months before the person requests a prescription. As was the case with comparable legislation introduced in 2005 and 2006, the bills have not advanced in the legislature.

Million Geezer March. On 1/24/07, Representative Lopez joined other supporters of the proposed legislation in demonstrating outside the state capitol in Phoenix.

#### California

Bill introduced. On 2/15/07, Assemblywoman Patty Berg, Assemblymen Lloyd Levine, and Assembly Speaker Fabian Nuñez introduced AB 374 (the California Compassionate Choices Act) in the California legislature. Twenty-four other members of the legislature co-authored the bill, which was patterned after the Oregon Death with Dignity Act but requires a mental health evaluation by a psychiatrist or psychologist if the patient is not in hospice care. The bill requires 41 votes to pass in the Democrat-dominated, 80-member Assembly and 21 votes to pass in the 40-member, Democrat-controlled Senate. A similar bill passed the lower House in the prior legislative session but died in a Senate committee. On 3/27/07, the Assembly Judiciary Committee approved the bill by a vote of 7 (all Democrats) to 3 (all Republicans). On 4/18/07, AB 374 was put on “suspense” in the Assembly Appropriations Committee, which is generally a delaying tactic used by a bill’s supporters when they feel they lack enough support to allow a vote on the Assembly floor. In order for the Senate to have time to pass the bill during the current session, it must pass out of the Appropriations Committee by 6/1/07 and receive a favorable vote on the Assembly floor by 6/8/07.

Coalitions. Supporters of AB 374 have formed a coalition called Californians for Compassionate Choices, while opponents have formed a coalition called Californians Against Assisted Suicide.

California Association of Physician Groups. On 3/7/07, the public policy committee of the California Association of Physician Groups (CAPG) voted to support AB 374. The committee noted that the experience in Oregon had shown a significant improvement in end-of-life quality of care as measured by clinical standards. CAPG represents thousands of physicians in organized medical groups throughout California and is California's largest physicians' group, as well as one of the largest in the nation.

Hawaii. HB 675 (the Hawaii Death with Dignity Act), patterned after the Oregon Death with Dignity Act, was introduced on 1/22/07 by House Judiciary Vice Chairman Blake Oshiro and co-signed by 12 Democrats and two Republicans. On 2/7/07, a four-hour hearing was held before the House Health Committee, with both oral and written testimony strongly against the bill. After the hearing, the committee voted 6 to 1 not to report the bill out to the full House, effectively killing the bill. SB 1995 introduced in the Senate is not expected to make it out of committee. Similar bills have failed to pass a number of times since 1999.

## Oregon

Deaths during 2006. On 3/8/07, the Oregon Department of Human Services issued a report on deaths during 2006 under the Oregon Death with Dignity Act. The complete report, which is a more abbreviated version than the reports for prior years, is available on-line at [www.oregon.gov/DHS/ph/pas](http://www.oregon.gov/DHS/ph/pas). The report included the following information:

Prescriptions written. In 2006, 65 prescriptions were written for lethal doses of medication, as compared to 24 prescriptions in 1998, 33 in 1999, 39 in 2000, 44 in 2001, 58 in 2002, 68 in 2003, 60 in 2004, and 64 in 2005.

Number of patients. In 2006, 46 patients died after taking lethal medication, as compared to 16 patients in 1998, 27 in 1999, 27 in 2000, 21 in 2001, 38 in 2002, 42 in 2003, 37 in 2004, and 38 in 2005. The number has remained small compared to the total number of deaths in Oregon, with about 14.7 deaths under the Act in 2006 per 10,000 total deaths. Of the 65 persons who received prescriptions under the Act during 2006, 35 died after taking lethal medication, 19 died from their underlying illness, and 11 were alive as of the end of 2006. An additional 11 persons who received prescriptions before 2006 died in 2006 after taking their medications. A total of 292 patients have died under the terms of the Act since it was passed in 1997.

Patient characteristics. Median age of the 46 patients who died was 74, 57% were male, 50% were married, 39% lived in the Portland metropolitan area, and 41% were college graduates. Forty-five of the 46 patients were white, and one was Hispanic. Eighty-seven percent of the patients who died had cancer, 76% were enrolled in a hospice program, and all but one of the patients had health insurance. Forty-three patients died at home, and two died in some type of care facility.

Patient concerns. The most common reasons for choosing assisted suicide expressed by patients to their physicians were inability to participate in activities that make life enjoyable (96%), loss of autonomy (96%), loss of dignity (76%), loss of control of bodily functions (59%), inadequate pain control (48%), and being a burden on family, friends, or caregivers (43%). No patient voiced concerns about the financial implications of treatment.

Mental health evaluations. Two of the 46 patients (4%) received a psychiatric or psychological consultation. (However, a psycho-social evaluation by a clinical social worker is standard practice when a patient enrolls in an Oregon hospice.)

Medical information

by the House Judiciary Committee but was rejected by the full House on 3/21/07 by a vote of 82 to 63 after four hours of emotional debate. Governor Jim Douglas had also reiterated his strong opposition.

Washington. Former Governor Booth Gardner, who has battled Parkinson's disease for over 15 years, continues to support the idea of a voter initiative in 2008 that would approve a new law patterned after the Oregon Death with Dignity Act.

Wisconsin. Senator Fred Risser and Representative Frank Boyle once again unsuccessfully circulated bills (SB 151 and AB298) similar to the Oregon Death with Dignity Act that would give terminally ill patients the right to "die with dignity." These legislators have spent more than 10 years trying to get the Wisconsin legislature to pass such a bill, but so far have never gotten one to a vote in either the state Assembly or the Senate.

### **OTHER NATIONAL DEVELOPMENTS**

Terminology. The title of this month's report uses the term "physician-assisted death" instead of "physician-assisted suicide" for the first time. This change reflects the developments described below. The web address and title of the website remain unchanged for ease in accessing the site.

Oregon Department of Human Services. In August 2006, Barbara Coombs Lee and George Eighmey of Compassion & Choices began meeting with representatives of the Oregon Department of Human Services (DHS) to request that DHS change the term it uses when referring to the Oregon Death with Dignity Act from "physician-assisted suicide" to a more neutral term. Lee and Eighmey argued that th

American Academy of Hospice and Palliative Medicine



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Jacob M. Appel, *A Suicide Right for the Mentally Ill? A Swiss Case Opens a New Debate*, Hastings Center Rep. 21 (May-Jun. 2007)

## INTERNATIONAL DEVELOPMENTS

### Australia

South Australia. In May 2007, South Australian Greens Senator Bob Such introduced the Voluntary Euthanasia Bill 2007, a private member's bill, in the South Australian parliament. Although six prior attempts have failed, Such said that safeguards would be increased in the new bill. Democrats leader Senator Sandra Kanck supports a referendum on voluntary euthanasia at the next general election, and intends to add such a referendum to another on reform of the Senate.

Victoria. A survey of 128 politicians in the Victoria state parliament conducted by Dying With Dignity Victoria, Inc. showed that 75% of those who responded supported the right to an assisted death and 25% did not. Legislation proposed by the organization has been endorsed by a number of politicians and organizations in Victoria.

Proposed federal legislation. On 2/8/07, Australian Greens leader Senator Bob Brown introduced a private member's bill to legalize voluntary euthanasia in Australian external territories such as Norfolk Island and Christmas Island. The bill, which is called the Rights of the Terminally Ill Bill 2007, is similar to the Northern Territory laws that were overturned by the federal government in 1996. The bill would require three physicians, including a psychiatrist, to oversee the process.

Suicide pill. A report in the November/December issue of "Deliverance" (a newsletter

published by Exit International of Australia) said that initial chemical analysis of the Peanut Project's "peaceful pill" showed that Dr. Philip Nitschke and others had succeeded in producing significant quantities of barbiturates. The newsletter also indicated that a second phase of the project would begin in 2007 with the transfer of equipment and know-how to another group of people wanting to end their lives. Due to difficulty in getting services from commercial laboratories, a fundraising drive has been launched to purchase sophisticated equipment for in-house chemical testing of drugs that are beyond their normal expiration date.

*The Peaceful Pill Handbook*. On 9/19/06, 45 copies of Nitschke's *The Peaceful Pill Handbook* were seized by Customs officials at the Brisbane airport. On 12/18/06, the board of the Office of Film and Literature Classification voted to allow the book to be sold in bookstores wrapped in plastic as a Category 1 - Restricted publication only for those over 18. Federal Attorney General Philip Ruddock appealed the board's decision, and the board voted in February 2007 to ban the book in Australia on the grounds that it told people how to manufacture barbiturates and violated federal laws prohibiting the promotion of suicide. However, the book will soon be available in downloadable form on Google for about \$30. On 3/25/07, two busloads of "freedom riders" burned hundreds of copies of the book in front of the federal parliament building to mark the 10th anniversary of parliament's overturning the Northern Territory's law permitting euthanasia.

Nancy Crick. Nancy Crick, a 69-year-old resident of Queensland, ended her life on 5/22/02 in the presence of 21 family, friends, and supporters of voluntary euthanasia with the intent of challenging laws against assisting a suicide. Although Queensland police investigated the case for possible criminal prosecution, they decided not to proceed. However, in September 2006 John Edge published a book, *Telling It Straight*, in which he admitted that he was present when Crick died and helped dispose of the evidence that could have been used to support a charge of assisted suicide. Gold Coast production company Launch Pictures has acquired film rights to the book, and work has begun on a movie about Crick.

TV programs. On 10/9/06, Sundance Channel screened the documentary "Mademoiselle and the Doctor" k(d)-3ed filmntl

deny the Humanitarian of the Year award to Lee Davis, despite total support of Davis by the independent judging panel. Davis is an 86-year-old woman who had been selected for her work with the Voluntary Euthanasia Society.

Survey of neonatologists. In February 2007, the Archives of Disease in Childhood reported on an anonymous survey of 78 neonatologists in Australia and New Zealand conducted by Dr. Peter Barr, a neonatologist and senior staff physician at the Children's Hospital at Westmead. The survey indicated that, if legal ramifications were disregarded, almost half of those surveyed were prepared to speed up death in babies for whom further treatment was considered hopeless. One in three were prepared to break the law to intentionally hasten the death of a baby born with a severe life-threatening disability.

Graeme Wylie. Shirley Justin, a 58-year-old woman and longtime partner of Graeme Wylie, and her friend Caren Jennings, a 74-year-old woman who supports voluntary euthanasia, have been charged with murdering 71-year-old Wylie in Cammeray in March 2006 with a lethal overdose of the drug Nembutal. Wylie suffered from severe dementia and Alzheimer's disease, and Swiss authorities had rejected his request to go to Switzerland for an assisted death because tests showed him to be incapable. Justin and Jennings were granted bail on 3/6/07 but ordered to reappear before a local court on 5/10/07.

Opinion polls. A survey conducted by Newspoll during February 2007 showed that 80% of Australians believe that terminally ill individuals should have a right to seek and obtain assistance to end their life, 14% were opposed, and 6% were undecided.

## Belgium

Dr. Marc Cosyns. In February 2006, Ghent physician Marc Cosyns published an article in the medical magazine Huisarts stating that he had ended the life of Suzanne Roegiest, an 87-

declarations in Flemish over those in French (88% versus 14%).

Central data bank of living wills. As provided for in the euthanasia laws, a system permitting registration of living wills in a central data bank is nearing completion. In January 2007, the Ministry of Public Health indi



Paulette Drualis. On 3/15/07, a court in southwestern Perigueux convicted Dr. Laurence Tramois on charges of prescribing lethal medication that caused the death of Paulette Drualis, a terminally ill cancer patient, on 8/25/03. Chantal Chanel, the nurse who administered the lethal injection, was acquitted. Tramois could have received a sentence of up to 30 years, but only received a one-year suspended sentence. Drualis's husband and son supported the nurse and physician, who had admitted their actions.

French election. The physicians' petition and the Tramois trial stirred debate over the issue of euthanasia in the French presidential election. Segolene Royal, candidate of the Parti Socialiste, indicated that she would push for a new law to allow euthanasia under some circumstances. The winner of the election, Nicolas Sarkozy of the ruling conservative Union pour un Mouvement Populaire, also suggested he might favor a law permitting euthanasia. Francois Bayrou of the center-right Union pour la Democratie Francaise, however, has said that physicians and patients—not the law—should decide.

## Germany

Academy Foundation for Terminal Care. The Academy Foundation for Terminal Care (Akademie-Stiftung für Sterbbegleitung, or AsfS) has been established in Germany by 0.0005(3.9(esp

decisionmaking for persons who lack mental capacity. Among other things, the law now allows execution of a living will and appointment of an agent to make medical decisions. In November 2006, the Lord Chancellor issued guidelines for physicians, with the backing of Health Secretary Patricia Hewitt. Lord Falconer warned physicians that a physician who refuses to follow the instructions in a living will may face a legal claim for damages or a criminal prosecution for assault. A physician who has religious or moral objections to carrying out the instructions must refer the patient to another physician who will follow them. A physician who reasonably believes that a valid living will exists and who allows a patient to die will not be held liable for the consequences, even if it turns out that the living will was not valid or no living will exists.

Survey of physicians. A survey of 857 British physicians found that 88% would help a terminally ill patient to die only if the patient was expected to live less than a week. In 70% of prior cases, the physician had discussed the action with the patient, the patient's family, and medical and nursing colleagues. A report on the survey by Professor Clive Seale will be published in the Journal of Palliative Medicine. The report compares the attitudes of British physicians with those working in the Netherlands, Australia, Belgium, Italy, Denmark, Sweden, and Switzerland.

Mrs. Z. Late in 2004, a High Court judge ruled that a husband could travel to Switzerland with his wife (referred to only as "Mrs. Z"), who suffered from an incurable brain disease, so she could be helped to die by the Swiss organization Dignitas. Local authorities providing care to the wife had



baby should receive treatment to keep the baby alive. The report also contained recommendations for each week between 22 and 25. The report stressed that euthanasia of newborn babies should not be allowed, and that the council was opposed to any legislation that would ban resuscitation of a premature baby. The council sent its report to the Department of Health and the royal colleges and hopes its recommendations will become part of new codes of practice. The chair of the medical ethics committee of the British Medical Association stated that the group did not agree with stringent cut-off points for treatment.

Dave Richards. On 11/15/06, Dave Richards, a 61-year-old paleontologist who was terminally ill with Huntington's disease, died in a Dignitas clinic in Switzerland. Before leaving for Switzerland, Richards had dinner with Sunday Times reporter Sarah-Kate Templeton to explain the reasons for his action. Richards was accompanied on his trip by Michael Irwin, former chair of the Voluntary Euthanasia Society, who was struck off the physicians' medical register because of his campaign for voluntary euthanasia and his links to Dignitas.

Elisabeth Rivers-Bulkeley. On 12/19/06, 82-year-old Elisabeth Rivers-Bulkeley died in a Dignitas clinic in Switzerland. She was a member of the Scottish pro-euthanasia group

doctrine of double effect. In February 2007, Mr. Justice Kirkwood directed that the case should go to a full hearing before the High Court and said that he would inform the Attorney General about the case because a potential ruling under civil law could affect criminal law. The hearing before the High Court was scheduled to begin on 3/26/07.

Ireland. On 12/18/02, the coroner's court opened an inquest regarding the involvement of Reverend George Exoo and Thomas McGurrin of Beckley, West Virginia, in the suicide of Rosemary Toole Gilhooley, a 49-year-old woman who died in Dublin in January 2002 after swallowing crushed sleeping pills, covering her head with a plastic bag, and breathing helium. Exoo is a minister at New River Unitarian-Universalist Fellowship and runs Compassionate Chaplaincy, a tax-exempt organization that counsels people seeking to commit suicide. In September 2003, the Director of Public Prosecutions confirmed that extradition proceedings would be commenced in the United States against the two men. On 2/2/07, the court was informed at another hearing that a reminder of the extradition request had been sent to the U.S. State Department on 1/17/07 but that difficulties had arisen regarding the extradition request because the United States will only extradite a person who potentially faces a sentence of longer than 12 months if convicted. After the hearing, the coroner granted an adjournment until 7/13/07. Toole Gilhooley tried to leave money under her will to the Compassionate Chaplaincy Foundation in West Virginia and Last Right Publications in Victoria, Canada, but the Irish High Court ruled in 2005 that she had no right to do so because the transfers were not charitable donations under Irish succession law.

## India

Law Commission. A number of residents of India have requested that courts grant permission to die by euthanasia, but so far all the requests have been denied. However, the Law Commission of India recommended legislation that would permit a terminally ill patient or the patient's family to request a physician's assistance in euthanasia. If the physician agreed, the request would be considered by a government-appointed committee of three expert physicians, who would have to concur before euthanasia would be allowed. The commission's recommendation was rejected by the Health Ministry after discussions during December 2006, on the ground that euthanasia could be misused and abused.

Fasting with intent to die







Radio program. On 4/22/07, Radio Netherlands broadcast a debate on euthanasia on its topical discussion program, Amsterdam Forum. Various experts discussed issues such as why other countries had been unwilling to follow the Netherlands in allowing euthanasia.

### New Zealand

Lesley Martin. In September 2002, Lesley Martin, a euthanasia campaigner, published the book *To Die Like a Dog*, which described how Martin, an intensive care nurse, gave her mother a morphine injection in May 1999 as she was dying of cancer. Martin eventually was convicted of attempted murder and sentenced to 15 months in prison. She refused to apply for home detention and served half of her sentence before being released from prison in December 2004. Her appeals from the conviction were denied. In June 2006, a professional conduct committee of the Nursing Council asked the Health Practitioners Disciplinary Tribunal to cancel Martin's registration on the ground that her conviction made her unfit to practice. Although the tribunal refused to do so, a Wellington High Court judge ruled on 2/27/07 that Martin's registration would be canceled because she continued to say that she would do the same thing if faced with a similar situation in the future. Subsequently, Martin was barred from holding a public meeting at Otago University.

no prospects for employment. The judge rejected the suit on formal grounds, but the judge ruled that the suit would have been unacceptable even if formally correct. Euthanasia is illegal in Poland and punishable by up to five years in jail, although courts can refrain from punishment in particular cases.

Russia. Valentina Petrenko, chair of the Federation Council Social Policy Committee, has drafted a bill that would permit euthanasia in Russia in “exceptional cases.” If adopted, incurable patients could be deprived of their life at their request provided the request is granted by a group of physicians and by a commission made up of medical personnel, lawyers, and prosecutor’s office staff. The patient’s request would have to be made orally and then in a writing that is certified by a notary. During April 2007, several senior Duma members indicated that the lower house of the Russian parliament would not support the bill pending in the upper house. Although patients’ rights organizations have supported the measure, it is opposed by the Russian Orthodox Church, various medical and scientific groups, and organizations providing palliative care for the terminally ill.

### Spain

Inmaculada Echevarria. Inmaculada Echevarria, a 51-year-old resident of Granada, had been bedridden and on a respirator for 20 years as a result of muscular dystrophy. In 2006, she signed a living will and retained a lawyer to help her have the respirator turned off. In February 2007, the Autonomic Ethics Committee at the Junta de Andalucia issued a report supporting Echevarria’s decision, and the regional government’s Consultative Commission decided to support the committee’s report. On 3/14/07, after Echevarria was transferred from the Catholic hospital where she had been treated to a state hospital, her life support was switched off and she died.

Jorge Leon Escudero. Jorge Leon Escudero, a 53-year-old quadriplegic former nurse who lost the use of his arms and legs in an accident and was on a respirator, wrote a weblog in 2006 pleading for help to “die with dignity.” A Spanish judge opened an investigation into Leon Escudero’s death after he was found at his home disconnected from the respirator, with an empty glass that apparently contained a sedative that someone gave him.

Madeleine Z. In January 2007, a 69-year-old Alicante woman known as Madeleine Z who was suffering from Lou Gehrig’s disease, was helped to die by two members of the Association for the Right to a Dignified Death. After her son lodged a complaint with the authorities, a Spanish judge ordered an investigation into her death, which apparently resulted after she swallowed a cocktail of drugs at her home.

### Sweden

Right of mentally ill to assisted suicide. On 10/27/06, a case was argued before the Swiss Federal Court on behalf of a 53-year-old Dignitas member with bipolar disorder who wanted to have the option of assisted suicide. On 2/2/07, the court ruled in the man's favor, finding that article 8, section 1, of the European Convention on Human Rights gives the same right of self-determination to the mentally ill as other persons have, provided the mentally ill individual is able to form his or her will freely and then act upon it. However, the court stressed that the utmost restraint needed to be exercised, and that the appropriate assessment required a special in-depth psychiatric opinion. The court denied the man's request for access to barbiturates without the need for a prescription.

Zurich University Hospital. Since the beginning of February 2007, Zurich University Hospital has banned assisted suicide on its premises, although those wanting to die may leave the hospital. The directive applies not only to hospital personnel, but also to any visitors. However, assisted suicide groups can still visit patients.

Thailand. On 1/3/07, the National Legislative Assembly (NLA) of Thailand passed the National Health Bill, which authorizes the use of advance medical directives. Health professionals will be required to honor a patient's advance directive and will not be held responsible for any resulting consequence. Public Health Minister Mongkol na