
Recent Developments in Physician-Assisted Suicide

October 1998



## LITIGATION

1. *Lee v. Oregon*, 107 F.3d 1382 (9th Cir. 1997), cert. denied sub nom *Lee v. Harcleroad*, 118 S.Ct. 328, 139 L.Ed.2d 254 (1997). Pursuant to the Ninth Circuit's mandate, U.S. District Judge Michael Hogan dismissed this case during a status hearing held on 11/25/97. However, Judge Hogan agreed to entertain further briefs regarding standing questions. On 7/13/98, Judge Hogan heard argument on two motions by the plaintiffs: (1) a motion to amend their complaint to allege that plaintiff Janice Elsner has standing due to the "stigmatic injury" that has resulted because legalizing physician-assisted suicide devalues her life and (2) a motion to certify the case as a class action. As a result of Troy Thompson's death, the plaintiffs withdrew their motion to amend the complaint to join him as a plaintiff. On 9/22/98, Judge Hogan issued an order denying the plaintiffs' pending motions, finding that the standing question had already been decided by the Ninth Circuit. Judge Hogan's order further stated:

> Although I am bound by the Ninth Circuit's decision in this case, I find it troubling because it may well render Measure 16 incapable of judicial review. A terminally ill person intending to avail himself or herself of assisted suicide is obviously not going to challenge the constitutionality of the statutory scheme. Under this new Oregon law, the suicidal impulses of terminally ill persons are treated differently from the suicidal impulses of those who are not so afflicted. This court questions a decision which effectively places a statute of such consequence outside the parameter of constitutional review. Had the voters enacted a measure that permitted members of a certain race, gender, religion, or age group to avail themselves of physician assisted suicide, would outraged members of such classes lack standing to challenge the legislation on the ground they had no intention of committing suicide?

2. *Kevorkian v. Thompson*, 947 F.Supp. 1152 (E.D. Mich. 1997), appeal pending (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 10/28/97, the Sixth Circuit denied plaintiffs' motion to remand the pending appeal. Final briefs and requests for oral argument were filed by the parties during June 1998.

3. *State v. Naramore*, 25 Kan. App. 2d 302, 965 P.2d 211 (1998). On 7/24/98, the Kansas Court of Appeals issued a 2-1 decision acquitting Dr. Stan Naramore of criminal charges in connection with the deaths of two patients in August 1992 following administration of medication Naramore claimed was given to relieve pain. The court found that "no rational jury could find criminal intent and guilt beyond a reasonable doubt based on the record here." Naramore was supported in his appeal by the American Osteopathic Association, the Kansas Medical Society, and the Kansas Association of Osteopathic Medicine, but many observers expected an order for retrial rather than an outright acquittal. Naramore spent 2ý years in prison after being convicted by a jury of second-degree murder and attempted murder.

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## LEGISLATION

1. Hawaii

a. Blue Ribbon Panel's report. Governor Ben Cayetano's Blue Ribbon Panel on Living and Dying with Dignity issued a 101-page report in June 1998, recommending by a vote of 11-7 that the state legislature legalize physician-assisted suicide and "physician-assisted death" (active euthanasia) for "mentally-alert patients who either are terminally ill or suffer intractable and unbearable illness that cannot be cured or successfully palliated." The panel proposed a set of safeguards (including repeated requests to die made by the patient to two physicians, a psychiatrist, and a social worker) as part of a draft Model Hawaii Law adapted from the Model State Act published in the *Harvard Journal on Legislation* in January 1996. The panel unanimously favored improvements in end-of-life care, including spiritual counseling, public and healthcare professional educational programs about choices available to the dying, advance healthcare directives, hospice care, and pain management and other symptom control programs. Copies of the panel's report are available from the State Executive Office on Aging, No. 1 Capitol District, 250 S. Hotel St. #109, Honolulu, HI 96813-2831, telephone (808) 586-0100, fax (808) 586-0185.

b.Proposed legislation. Governor Cayetano has announced that he will introduce bills in the state legislature in spring 1999 to legalize physician-assisted suicide and active euthanasia.

c. Public meetings. Marilyn Seely, head of the Executive Office on Aging, has announced that her office will be sponsoring public meetings on the issues raised by the Blue Ribbon Panel's report.

d. Efforts by supporters and opponents. Two conservative groups, Hawaii Right to Life and Focus on the Family, began a series of radio advertisements early in July opposing legalization. The Ad Hoc Committee on Living and Dying With Dignity, a private group that pre-dated the Blue Ribbon Panel, is expected to launch its own educational campaign on the proposals.

e. Public opinion poll. Appendix L of the Blue Ribbon Panel's report summarized the results of a survey of community attitudes conducted by the Center on Aging of the University of Hawaii's School of Public Health. The survey revealed significant differences among ethnic groups about whether physician-assisted death should be allowed, with disapproval strongest for Filipinos and Hawaiians.

2. Maine

a. PRO 916. Following the Maine legislature's rejection in February 1998 of a bill that would have legalized physician-assisted suicide, assisted suicide supporters have launched the PRO 916 campaign to collect petition signatures to put the proposal on the ballot in 1999 or 2000. Supporters must collect voter signatures amounting to 10% of the total vote cast in the November 1998 race for governor.

b. Mainers for Death with Dignity. The group "Mainers for Death with Dignity" seeks legislation similar to the Oregon Death with Dignity Act or, failing that, a referendum. The proposed legislation differs from the Oregon law in that it would require consultation by a pain specialist.

3. Michigan

a. Legislature. Senate Bill 200 (making physician-assisted suicide a crime punishable by up to 5 years' imprisonment and a $10,000 fine) became effective 9/1/98.

b. Voter initiative. Michigan voters will vote on November 3 on Proposal B, a ballot measure that would legalize physician-assisted suicide by Michigan residents and near relatives from out of state (mother, father, siblings, children, and spouses of those relatives). The group Merian's Friends submitted petitions bearing more than 379,000 signatures to the Michigan Bureau of Elections; only 247,127 valid signatures were needed to place a measure on the ballot. On 7/20/98, the Board of State Canvassers certified the measure, rejecting an objection filed by Citizens for Compassionate Care.

(1) Ballot language. Following a vigorous dispute over the proper language to be used on the ballot, supporters and opponents of Proposal B agreed on the following language:

**Proposal B**
Initiated legislation to legalize the prescription of a lethal dose of medication to terminally ill, competent, informed adults in order to commit suicide.
The proposal would:
1) Allow a Michigan resident or certain out-of-state relatives of Michigan residents confirmed by one psychiatrist to be mentally competent and two physicians to be terminally ill with six months or less to live to obtain a lethal dose of medication to end his/her life.
2) Allow physicians, after following required procedures, to prescribe a lethal dose of medication to enable a terminally ill adult to end his/her life.
3) Establish a gubernatorially appointed, publicly funded oversight committee exempt from Open Meetings Act and whose records, including confidential medical records and minutes, are exempt from Freedom of

Information Act.
4) Create penalties for violating law.
Should this proposal be approved?

(2) Campaign against Proposal B. A coalition known as Citizens for Compassionate Care has formed to oppose Proposal B. Members of the coalition include the Michigan State Medical Society, Right to Life of Michigan, and the Michigan Catholic Conference; the group's planned advertising campaign is expected to cost between $5 and $6 million. Another group, Metro Detroiters Concerned About Proposal B, has asked for health care professionals to put campaign literature in their offices, for local politicians and civic leaders to publicly declare their opposition, for local religious leaders to mount campaigns within their congregations, for people who oppose Proposal B to leave their porch lights and vehicle lights on, and for clergy of all faiths to dedicate the weekend services of 10/31 to 11/1/98 to a faith-based message. A videotaped message from Cardinal Adam Maida against Proposal B has been furnished to over 300 Detroit-area Catholic churches, and some 360,000 Catholic families will receive six special editions of the weekly diocesan newspaper before election day.

(3) Voter polls. A poll of 600 registered voters conducted by EPIC/MRA of Lansing between 9/29 and 10/1/98, based on the ballot language, showed 48% in support of Proposal B, 40% opposed, and 9% undecided; when pollsters gave additional details about Proposal B, 54% supported the measure, 40% were opposed, and 6% undecided. However, a private poll conducted by supporters of Proposal B showed a 43% to 43% tie, which supporters claimed was due to the unanswered TV campaign being conducted by opponents.

4. New York. In early August 1998, New York Governor George Pataki signed a bill that eliminates the use of triplicate forms to prescribe controlled substances and redefines "addict" and "habitual user" to make it easier for physicians to treat the pain of seriously ill patients.

5. Oregon

a. Deaths by assisted suicide. On 8/18/98, officials of the Oregon Health Division reported that, since the Oregon Death with Dignity Act went into effect in late October 1997, eight patients had died after taking lethal medication and that another two patients had obtained medication but died before taking it. In each case, all requirements of the Act were found to have been satisfied. Additional information reported included the following:

(1) Five patients were men and five were women.
(2) Five patients were from the Portland area.
(3) The average age of the patients was 71.
(4) Eight of the 10 patients had more than a high school education.
(5) All 10 patients were white.
(6) Nine patients had cancer and one had heart disease.
(7) The number of days between obtaining the medication and taking it ranged from the same day to 16 days, with an average of two days.
(8) All patients fell unconscious within 20 minutes of taking the medication, with an average lapse of five minutes.
(9) The average time between taking the medication and death was 40 minutes; the longest time was seven hours.
(10) No patients experienced complications after taking the medication.
(11) Most of the deaths occurred 3-4 months prior to the report.
(12) The two patients who died of their illnesses lived an average of 10.5 days after obtaining the medication.
(13) Nine different primary physicians were involved in the ten cases; although one physician had two patients, they were the two patients who did not take the medication.

The Oregon Health Division is conducting in-depth interviews with the physicians involved and will issue a more extensive report early in 1999 covering all cases under the Act.

b. Compassion in Dying. On 8/18/98, Barbara Coombs Lee reported that Compassion in Dying had assisted two of the patients who had died after taking lethal medication. Compassion in Dying had received 200 inquiries about assisted suicide since the law went into effect, 50 of those from patients (25 of whom were eligible). In addition to the two who took the lethal medication, eight had begun the process but died of their illnesses. Fifteen were still in the process of obtaining a prescription.

c. Hospice guide. The Oregon Hospice Association has issued a new publication, *Hospice Care: A Physician's Guide*, for use by Oregon physicians. The reference guide was first published by the Minnesota Hospice Organization and was modified for use in Oregon. Funding was provided by a grant from the Hospice Foundation of America.

d. Oregon Health Sciences University. Oregon Health Sciences University, Oregon's only medical school, has been criticized for failing to incorporate into the curriculum any formal teaching on physician-assisted suicide. The only discussion of the subject during the 1997-98 academic year was initiated by students during a two-hour period as part of a three-week segment on "Death and Dying." Faculty and administrators report that the topic has been considered too controversial to cover. However, pharmacy students at Oregon State University's School of Pharmacy study physician-assisted suicide as part of a required ethics class.

e. Task Force on Pain and Symptom Management. The Task Force, which was established by the Oregon legislature in 1997, heard testimony in August 1998 from many witnesses indicating that physicians either are not concerned about or do not know how to treat chronic pain.

f. Oregon Health Plan's drug management program. In September 1998, opponents of physician-assisted suicide charged that Oregon Health Plan officials had limited refills of the narcotic Oxycontin for controlling the pain of low-income patients, while fully funding physician-assisted suicide. The medical director of the Oregon Medical Assistance Program later said that the restriction was made in error and the dosing limit had been increased.

g. Study of end-of-life care. In October 1998, researchers at Oregon Health Science University's Center for Ethics in Health Care released preliminary findings from a study of end-of-life care in Oregon, called "Barriers to Care for the Dying." As part of a lengthier study that will not be completed until 1999, researchers over a 12-month period interviewed 475 families three months after the death of a loved one. Overall, pain levels reported by family members were lower than those reported nationally. However, pain levels reported for hospital patients in the last two months of 1997 (immediately after the Oregon Death with Dignity Act went into effect) were significantly higher than during prior months. Researchers believe that the increase may have resulted because of physicians' reluctance to prescribe pain medications in the face of Drug Enforcement Administration threats to investigate physicians participating in physician-assisted suicide.

6. Federal legislation

a. Lethal Drug Abuse Prevention Act of 1998. The Lethal Drug Abuse Prevention Act of 1998 (H.R. 4006 and S. 2151), which would amend the Controlled Substances Act to revoke the prescribing privileges of a physician who prescribes medication to assist in suicide or euthanasia, was introduced in Congress in June 1998. After a hearing on 7/14/98, the constitution subcommittee of the House Judiciary Committee voted 6-5 to make certain amendments to H.R. 4006 and endorse the amended bill; on 8/4/98, the House Judiciary Committee approved the bill. Under the bill as amended, the Attorney General would have to prove by clear and convincing evidence that a physician intended to assist in a patient's suicide, the medical review board would issue advisory opinions rather than findings, and physicians could not be disciplined retroactively for assisting in suicides while the Oregon law was in effect. Although H.R. 4006 was expected to come before the House by mid-September, the vote was repeatedly delayed as opposition to the bill mounted. On 9/24/98, the Senate Judiciary Committee passed S. 2151 (with amendments similar to those made to H.R. 4006) on a vote of 11-6, after chairman Senator Orrin Hatch said the bill would not be taken up by the full Senate before adjournment. However, Oregon Senator Ron Wyden placed a hold on the bill and announced he would filibuster if necessary. On 10/9/98, Senator Don Nickles introduced a one-sentence amendment he planned to attach to a spending bill, which was intended to accomplish the same purpose as S. 2151.

b. Medical and patient advocacy groups oppose federal legislation. Nearly 60 medical and patient advocacy groups expressed opposition to the Lethal Drug Abuse Prevention Act, including the American Academy of Family Physicians, American Pharmaceutical Association, American Society of Health Systems Pharmacists, American Medical Association, American College of Physicians, American Society of Clinical Oncology, National Hospice Organization, American Pain Foundation, and American Cancer Society. Most of the organizations oppose physician-assisted suicide but were concerned that the proposed legislation would discourage effective pain management and threaten patients' rights to privacy.

c. Leading newspapers oppose federal legislation. In September 1998, the New York Times, Washington Post, and Los Angeles Times issued editorials opposing the Lethal Drug Abuse Prevention Act.

d. Clinton administration proposes panel. The Clinton administration opposed the Lethal Drug Abuse Prevention Act, proposing instead that a national commission of physicians, nurses, consumers, theologians, ethicists, and law enforcement officials be created to study the use of pain-killing drugs by the terminally ill.

e. National poll. On 7/30/98, supporters of physician-assisted suicide released the results of a nationwide telephone poll of 1,000 adults conducted by GLS research during July 1998. Responses included the following:

(1) 74% agreed that "People in the final stages of a terminal disease who are suffering and in pain should have the right to get help from

their doctor to end their life, if they so choose."
(2) 66% approved of Oregon's Measure 16 after being read its official ballot title.
(3) 66% would favor "a similar law" in their own state.
(4) 75% said that Congress "should not overturn" Oregon's Measure 16.
(5) 80% agreed that "Since Oregon voters overwhelmingly approved the state law allowing terminally ill patients in Oregon to get a prescription for medication to end life, Congress should respect the will of these voters and not try to overturn Oregon's law."
(6) 76% agreed that "It is not appropriate for Congress to get involved in regulating legal drugs prescribed by doctors to their patients."
(7) 72% opposed "federal legislation that would prohibit physicians from prescribing medications that terminally ill patients could request to end life."
(8) 90% agreed that "It should be up to local doctors and medical boards to decide what is appropriate treatment for the terminally ill, not the federal government."

The poll's findings were similar to those of a 1996 Gallup poll.

f. Oregon legislators propose task force. Oregon Senator Ron Wyden and Representative Darlene Hooley announced on 7/30/98 that they are forming a task force to examine education, training, pain management, and other issues related to treating the terminally ill. They were joined by representatives of Americans for Better Care of the Dying, the American College of Physicians, the American Geriatrics Society, the American Pharmaceutical Association, and the National Hospice Organization. The effort could result in legislative proposals after the next Congress convenes in January 1999.

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**OTHER NATIONAL DEVELOPMENTS**

1.Michigan

a. Recent assisted suicides. No deaths have been identified since June 1998 in which Dr. Jack Kevorkian has assisted.

b.Misdemeanor charges against Kevorkian and Reding. Dr. Jack Kevorkian and his assistant, Dr. Georges Reding, have been charged with the misdemeanors of resisting arrest and obstructing a police officer as a result of an altercation that occurred when a patient's body was dropped off at the hospital. Each faces up to 90 days in jail and a $500 fine. The case was scheduled to begin on 10/5/98 but had to be postponed when the defendants' lawyer suffered a heart attack.

c. Possible felony charge against Kevorkian. Royal Oak city attorney Charles Semchena has said that police still are compiling evidence in connection with the death of Joseph Tushkowski, whose kidneys were removed for possible transplantation at the time of his assisted suicide in June 1998. Dr. Kevorkian could be charged with transporting body parts, a felony punishable by 10 years in prison and a $5,000 fine.

d. Cease and desist order. On 4/4/97, Dr. Kevorkian was served with an order from the Michigan Department of Consumer and Industry Services to cease and desist from practicing medicine by assisting in suicides without a medical license (Kevorkian's license was suspended on 8/21/92). On 7/16/98, Kevorkian was served with a subpoena demanding that he produce medical records for 42 patients who have died with Kevorkian's help since April 1997. Department director Kathleen M. Wilbur believes that the records will prove that Kevorkian has continued to practice medicine in violation of the cease and desist order. Kevorkian was ordered to produce the records by 7/24/98 or risk being held in contempt of court, but Kevorkian refused to do so. Kevorkian's attorney claims that assisting a suicide is not the practice of medicine and that any records are protected by Kevorkian's constitutional rights against self-incrimination. Wilbur has asked the Attorney General to seek a court ruling enforcing the subpoena. The penalty for violating the court's order could be up to four years in prison.

e. Kevorkian's attorney in governor's race. On 8/4/98, Dr. Kevorkian's attorney Geoffrey Fieger won the Democratic primary in the race for governor of Michigan. Fieger received 41% of the votes cast, as compared to 37% for lawyer Larry Owen and 22% for former state senator Doug Ross. However, a poll conducted by EPIC/MRA on 8/6/98 showed incumbent Governor John Engler leading Fieger by 53% to 33%, with 14% undecided.

2. Florida. On 7/31/98, a panel of seven medical experts from around the country issued a report regarding the deaths of 19 terminally ill patients who died while under the care of Hospice of Volusia-Flagler or Halifax Medical Center in Daytona Beach. The panel rejected the claims of suspended Volusia County Medical Examiner Dr. Donald Reeves, who had charged that the deaths were a result of morphine overdoses and that at least four deaths were homicides. Reeves has sued the county and the Florida Medical Examiner's Commission. Family members of at least one patient also are considering a lawsuit.

3. Illinois. The Cook County medical examiner's office has issued a homicide ruling in the death of Henry Taylor, a 69-year-old man with a terminal kidney disease who died 9/30/98 in Columbia Olympia Fields Osteopathic Hospital and Medical Center shortly after receiving an injection of a large dose of morphine and potassium chloride. Police have indicated that, if the osteopathic physician involved is charged, he will be charged with murder.

4 .New Jersey. Winthrop Drake Thies, president of Hemlock Society of New Jersey since 1995, is under investigation for alleged violation of New Jersey's assisted suicide law. Thies was detained on 8/13/98 at the home of a terminally ill cancer patient who had planned "self-deliverance" with drugs she had obtained privately, but who was stopped when authorities confiscated the drugs. Thies says that, if he is indicted, he will use his case to test the constitutionality of the 30-year-old New Jersey statute.

5. Oregon. On 4/4/98, Henry Jeffrey, a 92-year-old man who shot his Alzheimer's-stricken wife in 1996 rather than put her in a nursing home, entered a guilty plea after the district attorney agreed to reduce the original murder charge to criminally negligent homicide. On 10/5/98, Jeffrey was sentenced to three years' probation and a $2,500 fine.

6. Washington. On 8/31/98, Dr. Eugene Turner was charged with second-degree murder in connection with the death of 3-day-old Conor McInnerney on 1/12/98. Dr. Turner is charged with suffocating the infant when he began to revive after being declared dead. In June 1998, the infant's parents filed a $1.5 million damage claim against Olympic Memorial Hospital in Port Angeles.

7. On-line poll of seniors. On 8/8/98, SeniorNet issued the results of a poll of nearly 1,000 seniors conducted on-line as a prologue to SeniorNet's MetLife Solutions Forum on End-of-Life Care, which will run from 9/8 to 10/19/98 on SeniorNet's website (www.seniornet.org/ solutions). Most respondents were between the ages of 55 and 74. The poll showed the following:

a. 61% thought physician-assisted suicide should be legalized.

b. 52% would consider physician-assisted suicide.

c. Nearly 80% preferred not to be resuscitated if they had no chance of having a good quality of life, but only 40% had an official DNR order in place.

d. Only 6.6% wanted their physician and only 1.5% wanted their clergy to make end-of-life decisions for them if they were unable to do so.

8. Scripps-Howard newspapers' series. In September 1998, a number of Scripps-Howard newspapers around the country carried a series of articles on end-of-life care. A nationwide survey of 1,014 people for the series showed the following:

a. 68% believed that physicians should be allowed to painlessly end the life of a dying and suffering patient when the patient requests it.

b. 65% agreed that the family should make this decision if the patient was unable to do so.

c. A majority of every major demographic group favored medical assistance in ending life.

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**MEDICAL DEVELOPMENTS**

1. Compassion in Dying of Oregon. In September 1998, former Oregon legislator George Eighmey became executive director of Compassion in Dying of Oregon.

2. California conference. On 11/13/98, Death with Dignity and the San Francisco Medical Society will sponsor the California Conference on Physician Assisted Dying. The conference will take place at the University of California-San Francisco Medical Center.

3. Recent articles

a. Harvey Max Chochinov et al., *Depression, Hopelessness, and Suicidal Ideation in the Terminally Ill*, 39 Psychosomatics 366 (1998) [study of 196 patients with advanced terminal cancer revealed that hopelessness was correlated more highly with suicidal ideation than was the level of depression].

b. Mark D. Sullivan et al., *Should Psychiatrists Serve as Gatekeepers for Physician-Assisted Suicide?*, 28 Hastings Center Report 24 (Jul.-Aug. 1998) [authors suggest that psychiatrists should not serve as gatekeepers in end-of-life decisions].

c. Ezekiel J. Emanuel & Margaret P. Battin, *What Are the Potential Cost Savings from Legalizing Physician-Assisted Suicide?*, 339 New Eng. J. Med. 167 (1998) [two researchers holding opposite views about physician-assisted suicide and euthanasia conclude from available data that the potential cost savings from legalizing physician-assisted suicide would be very small].

d. Ezekiel J. Emanuel et al., *Policy Perspectives: The Practice of Euthanasia and Physician-Assisted Suicide in the United States--Adherence to Proposed Safeguards and Effects on Physicians*, 280 JAMA 507 (1998) [10.7% of 355 oncologists who were contacted had participated in either euthanasia or physician-assisted suicide; interviews of oncologists who had participated in euthanasia or physician-assisted suicide revealed that 78.9% of patients initiated and 60.5% both initiated and repeated the request, 97.4% of patients were experiencing unremitting pain or such poor physical functioning that they could not perform self-care, and physicians sought consultation in 39.5% of cases; 52.6% of oncologists received comfort from having helped a patient with euthanasia or physician-assisted suicide, 23.7% regretted their action, and 39.5% feared prosecution].

e. Lynne Warner Stevenson, *Editorial: Rites and Responsibility for Resuscitation in Heart Failure*, 98 Circulation 619 (1998), and Harlan M. Krumholz et al., *Resuscitation Preferences Among Patients with Severe Congestive Heart Failure*, 98 Circulation 648 (1998) [study of 936 SUPPORT patients with congestive heart failure showed that physician's perception of patient's hospital resuscitation preferences was correct for 84% of patients who had a stable preference and 68% of those who did not; only 25% of patients had discussed preferences with physician, but discussion of preferences did not affect level of agreement between physician perception and patient preference; cardiologists were significantly more likely than noncardiologists to agree with the patient's preference].

f. Linda L. Emanuel, *Facing Requests for Physician-Assisted Suicide: Toward a Practical and Principled Clinical Set*, 280 JAMA 643 (1998) [proposes an 8-step approach to respond to requests for physician-assisted suicide, which would not permit physician-assisted suicide but would allow patients to decline nutrition and hydration if terminally ill].

g. Susan W. Tolle et al., *A Prospective Study of the Efficacy of the Physician Order Form for Life-Sustaining Treatment*, 46 J. American Geriatrics Society 1097 (1998) [study of 180 nursing home residents in eight Oregon facilities revealed that residents with POLST orders in place received very high levels of comfort care and low rates of transfer for aggressive life-extending treatments].

h. Linda Ganzini et al., *Attitudes of Patients with Amyotrophic Lateral Sclerosis and Their Care Givers Toward Assisted Suicide*, 339 New Eng. J. Med. 967 (1998) [a study of 100 ALS patients in Oregon and Washington conducted during 1995-97 revealed that 56% would consider assisted suicide; 44% would request a lethal prescription from a physician if assisted suicide were legal, although most patients would reserve the medication for future use; hopelessness, but not depression, was associated with a willingness to consider assisted suicide; patients with a higher level of education were more likely to consider assisted suicide].

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**INTERNATIONAL DEVELOPMENTS**

1. Australia

a. Dr. Nitschke. Dr. Philip Nitschke earned only 9.3% of the vote in his campaign for the Liberal Menzies seat in the national Australian parliament against MP Kevin Andrews, who sponsored the federal legislation that overturned the Northern Territory's Rights of the Terminally Ill Act. Following the election, Dr. Nitschke announced that he planned to set up a euthanasia clinic in Melbourne that would provide information to patients about how to obtain illegal drugs to end their lives. In October 1998, he reported that he had assisted 15 patients to die since the Northern Territory's law was overturned.

b. Statehood for the Northern Territory. In October 1998, voters in the Northern Territory defeated a referendum proposing statehood for the Territory, with opposition coming primarily from the Aboriginal communities. If the Northern Territory became a state, it would no longer be subject to the federal legislation prohibiting Australian territories from passing legislation permitting physician-assisted suicide or active euthanasia.

c. State legislation. Bills that would have legalized voluntary euthanasia have failed in Western Australia and Tasmania. A similar effort is expected to fail in South Australia.

d. National strategy for palliative care. Australian Health Minister Michael Wooldridge announced on 7/13/98 that the federal government would spend $10 million over five years on a national strategy to improve palliative care, prompted by the euthanasia debate. The money will be used for education and research, to develop uniform indicators of performance, and to help fund the organization Palliative Care Australia.

e. Newcastle study. The National Health and Medical Research Council has allocated $120,000 for a 2-year study involving more than 600 cancer patients that will be conducted by the Hunter Area Health Service and the University of Newcastle, located in New South Wales. Patients will be asked their opinions on euthanasia from the initial diagnosis to palliative care stages of their illness. The study also will include a confidential survey seeking the views of medical personnel working with dying patients.

2. Belgium. In September 1998, the Belgian parliament was scheduled to debate proposed legislation to legalize euthanasia submitted by Socialist Senators Lallemand and Erdman. The Christian-Social PSC party is opposed to legalization and has submitted a bill that would require that the patient and physician arrive at a decision only after consulting with another physician, the patient's relatives, and the nursing team, and subject to social (and perhaps judicial) review.

3. Canada. 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. On 2/27/98, at the conclusion of a preliminary hearing, Judge Hughes Randall discharged Dr. Morrison when he found the evidence was insufficient for a jury to convict her of the pending first-degree murder charge or any lesser charge. On 6/5/98, Crown prosecutors filed an appeal before the Nova Scotia Supreme Court. In July 1998, provincial Justice Minister James Smith refused to enter a stay of proceedings that would have ended the prosecution, but he promised to press for changes in the existing law.

4. France

a. Nurse helps patients die. Nurse Christine Malevre is under investigation after admitting that she helped about 30 elderly, terminally ill cancer patients to die since January 1997 at Francois-Quesnay Hospital in Mantes-la-Jolie west of Paris. The patients' families, who had asked Malevre to help the patients die, have not pressed charges. The investigating judge ordered Malevre freed after finding no criminal motives, and Health Minister Bernard Kouchner has expressed sympathy for Malevre. French Senator Henri Caillavet, president of the Association for the Right to Die in Dignity, has called for legislation legalizing active euthanasia. The case is expected to raise new debate in France about euthanasia.

b. Medical council refuses to discipline physician. On 9/18/98, the regional medical council of Midi-Pyrenees refused to discipline Dr. Jean-Paul Duffaut, head of the geriatric service at a care facility who admitted to helping a 92-year-old woman die in January 1998 by active euthanasia. The head of the council called for a debate on the question of euthanasia.

c. Health Minister seeks to improve end-of-life care. Health Minister Bernard Kouchner, himself a physician, is seeking to improve care of the dying in France. Kouchner has directed physicians to make it easier for patients to get pain-relieving medication, proposed doubling of the number of palliative care units, and plans to launch a public information drive before year's end. Training for physicians in giving pain relief will begin in 1999.

d. Public opinion poll. In a poll conducted in September 1998, 79% of those questioned (64% of practicing Catholics) said they would like to be offered a chance of an early death if suffering an incurable and painful disease. In the last poll, conducted 10 years earlier, only 57% favored euthanasia.

5. Great Britain

a. British Medical Association. The British Medical Association has called for guidelines to ease the pressure on physicians regarding decisions on life-sustaining treatment. A consultative document, *Withdrawing and Withholding Treatment*, will be debated by physicians, lawyers, and the public via the Internet. It is hoped that final guidelines will be drawn up early in 1999.

b.Dr. Moor. In 1997, after prominent physician Dr. Michael Irwin announced that he had helped at least 50 patients to die, general practitioner Dr. David Moor (who has since retired) reported that he had helped at least 100 patients to die. Subsequently, Dr. Moor was arrested and then released on bail in connection with the death on 7/19/97 of George Liddell, an 85-year-old cancer patient. On 6/10/98, Moor was charged with murder. Dr. Moor is free on bail until the plea hearing, which is set for 10/19/98.

6. India. In June 1998, an 80-year-old Indian man, C.A. Thomas, filed a court petition in the provincial high court of the southern state of Kerala, claiming that he is entitled to choose when he dies. Thomas is financially secure and content with his family life, but believes he has lived long enough and does not want to wait to die until his health deteriorates. Thomas' lawyer contends that Thomas wants "voluntary death" rather than physician-assisted suicide or euthanasia, which are illegal in India and viewed as violating Hindu beliefs.

7. Ireland. Patrick Hanafin, a lecturer in Law at the Center for Legal Studies at the University of Sussex, has called in an article in FORUM (a periodical for Irish general physicians) for a discussion of the rights of dying patients, including the right to physician-assisted suicide.

8. Italy. In August 1998, Italy's Waldensian Protestant Church adopted a statement supporting euthanasia and assisted suicide and urged that legislation permitted these practices be considered. The Waldensians, most of whom live in mountain valleys near Turin, joined with the Methodists in 1975. The two groups have about 30,000 members.

9. Japan. On 6/9/98, a terminally ill cancer patient in his 80's died after being injected with a tranquilizer and a muscle relaxant. Officials with the Izumi-Otsu municipal hospital reported on 7/28/98 that the 28-year-old physician involved intended merely to ease the patient's pain and was unfamiliar with the potentially fatal effects of the muscle relaxant. The patient's family has complained that they were never told that a muscle relaxant was being used.

10. New Zealand. On 7/16/98, a jury found Janine Albury-Thomson guilty of manslaughter in the choking death of her 17-year-old autistic daughter. The prosecution had charged Albury-Thomson with murder after she confessed to police, but her attorney argued that she had been provoked by her daughter's extreme behavior. On 7/31/98, Albury Thomson was sentenced to four years in prison.

11. Thailand. The Public Health Ministry's Medical Science Department, which is coordinating the drafting of Thailand's first legislation for the elderly, organized a seminar in July 1998 to discuss whether terminally ill patients should be given the right to refuse treatment. Several experts opposed including such a provision, citing the complexity of the issues involved.

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