Recent Developments in Physician-Assisted Suicide

March 2001

LITIGATION

1. *Sampson v. Alaska*, No. 3AN-98-11288CI (Alaska Super. Ct.), appeal pending, No. S9338 (Alaska Sup. Ct.). On 12/15/98, Kevin Sampson (a 43-year-old HIV-positive man) and "Jane Doe" (a female physician in her 60's with cancer) filed suit in Alaska Superior Court in Anchorage challenging Alaska's ban on physician-assisted suicide based on state constitutional claims of privacy, liberty, and equal protection. On 9/9/99, Judge Eric T. Sanders issued a written opinion rejecting the plaintiffs' claims and granting summary judgment to the defendant. On 11/14/00, the Alaska Supreme Court heard arguments on the appeal. A ruling is not expected for six months.

2. *Cooley v. Granholm*, No. 99-CV-75484 (E.D. Mich.), appeal pending (6th Cir.). On 11/12/99, Professor Robert Sedler filed a federal lawsuit against Attorney General Jennifer Granholm and the Michigan Board of Medicine on behalf of two Michigan physicians, Roy Cooley and M.W. El-Nachef. The plaintiffs claimed that Michigan's ban on assisted suicide violates the Fourteenth Amendment right "to be relieved from unbearable pain and suffering." On 12/20/00, Judge Nancy G. Edmunds granted the defendants' motion for summary judgment and dismissed the complaint. Plaintiffs have appealed to the Sixth Circuit Court of Appeals.

3. *Sanderson v. People*, No. 99CA0203, 2000 WL 729008 (Colo. App. Jun. 8, 2000), appeal pending, No. 00SC582 (Colo. Sup. Ct.). In February 1996, retired state trial court judge Robert Sanderson filed a petition asking the Prowers County District Court for authority to execute a power of attorney authorizing his wife to have a physician end his life by lethal injection, provided that two physicians agree his medical condition is hopeless. Sanderson asserted claims under the First, Fourth, Fifth, Sixth, Ninth, and Fourteenth Amendments to the United States Constitution. In December 1998, Judge Norman Arends dismissed the lawsuit for failure to state a claim. Sanderson appealed, raising only his First Amendment claim that Colorado's statute criminalizing assisted suicide interfered with his religious belief in "free will" and therefore violated his rights under the Free Exercise Clause. On 6/8/00, the Colorado Court of Appeals affirmed the trial court's dismissal, finding that Colorado's assisted suicide statute "is a valid, religiously- neutral, and generally-applicable criminal statute that prohibits conduct a state is free to regulate." On 7/18/00, Sanderson appealed the case to the Colorado Supreme Court.

4. *Kevorkian v. Ludwick*, No. 00-CV-75557 (E.D. Mich.). On 12/27/00, Jack Kevorkian's attorney Mayer Morganroth filed a petition for writ of habeas corpus in U.S. District Court contending that Kevorkian should be released from prison while his murder conviction is appealed, because he is at risk of a stroke, he poses no threat to the public, and the issues on appeal have strong merit. Morganroth claimed that Kevorkian's rights were violated by a 12/12/00 Michigan Supreme Court decision that refused to overturn lower court rulings keeping him in prison. On 1/3/01, U.S. District Judge Paul Borman agreed to review Kevorkian's request for an appeal bond and ordered the Michigan Department of Corrections to respond by 3/6/01.

LEGISLATION

1. Maine. On 11/7/00, Maine voters defeated the proposed Maine Death with Dignity Act, which generally was patterned after the Oregon Death with Dignity Act. As of 11/9/00, with 99% of precincts reporting, the vote was 330,671 (51.3%) against and 313,303 (48.7%) for the measure.

    a. Poll results. Several telephone polls of about 400 Maine voters conducted in May, August, and

September 2000 showed that between 62% and 71% favored the ballot measure. However, two polls conducted later in October showed that support of the ballot measure had fallen to 54% and 52%, respectively.

b. Television advertisements. A television advertisement by groups opposing the Maine Death with Dignity Act depicted Dr. Thomas Reardon, an Oregon physician who has opposed the Oregon Death with Dignity Act as president of the American Medical Association. The advertisement claimed that Oregon patients attempting physician-assisted suicide ended up in hospital emergency rooms, and made other claims that supporters of the Maine initiative said were misleading. In response, the Act's supporters aired a television advertisement by Oregon's Governor John Kitzhaber, an emergency room physician, who said that the original advertisement was inaccurate. A second television advertisement by the Act's opponents, which suggested that HMOs would pressure Maine residents into physician-assisted suicide, was rejected by four major television stations for being factually unsupported.

2. Oregon.

a. 2000 deaths by assisted suicide. On 2/21/01, the Oregon Health Division issued a report on deaths during 2000 under the Oregon Death with Dignity Act. The complete report is available on-line at www.ohd.hr.state.or.us/chs/pas/ar-index.htm. A brief version of the report is found in Amy D. Sullivan et al., *Legalized Physician-Assisted Suicide in Oregon, 1998-2000*, 344 New Eng. J. Med. 605 (2001). The report included the following information:

(1) Number of patients. Thirty-nine persons received prescriptions under the Act, of whom 27 died after taking lethal medication (one of whom obtained the prescription in 1999), eight died from their underlying illness, and five were alive as of the end of 2000.

(2) Patient characteristics. Median age of the 27 patients who died was 69, 96% were white, 44% were male, 67% were married, 33% lived in the Portland metropolitan area, 19% were college graduates, and 31% had a post-baccalaureate degree. Twenty-one of the 27 patients who died had cancer, 88% were enrolled in a hospice program, and all patients for whom data were available had health insurance.

(3) Patient concerns. The most common reasons for choosing assisted suicide expressed by patients to their physicians were loss of autonomy (93%), inability to participate in activities that make life enjoyable (81%), loss of control of bodily functions (78%), and being a burden on family, friends, or caregivers (63%). Thirty percent cited concerns about pain control; one patient voiced concern about the financial impact of the illness.

(4) Mental health evaluations. Five of the 27 patients received a psychiatric or psychological consultation.

(5) Medical information. Twenty-six patients received prescriptions for nine grams or more of secobarbital. The lethal medication was delivered to the patient by a pharmacist in 65% of cases and by the physician in 30% of cases. The physician was present when the medication was ingested in 52% of cases. Median time from taking the medication to unconsciousness was nine minutes (individual times ranged from 1-38 minutes). Median time from taking the medication to death was 30 minutes (individual times ranged from 5-75 minutes); one patient was unconscious for up to six hours after taking the medication, but the actual time to death was not known. One patient regurgitated approximately 10 ml. of secobarbital suspension immediately after ingestion, but this patient became unconscious within one minute of ingestion and died within seven minutes.

(6) Physician characteristics. A total of 22 physicians prescribed lethal medications to 27 persons. The physicians' median age was 50 years and their median years in practice was 21. One physician was reported to the Oregon Board of Medical Examiners for submitting a written consent form with only one signature, although other witnesses were in attendance.

(7) Patient access to physicians. Fourteen patients who chose physician-assisted suicide had requested lethal medications from one or more providers before finding a physician who would participate.

Oregon Health Division statistics for 2000 generally were consistent with statistics for 1999.

b. Possible federal action. Supporters of the Oregon Death with Dignity Act have speculated that President Bush may take administrative action to overturn Oregon's law. Possible actions might include instructing the U.S. Attorney's office to prosecute Oregon physicians, holding public hearings that might lead to adoption of new administrative rules under the Controlled Substances Act, and instructing the Drug

Enforcement Administration to issue administrative sanctions against offending physicians. The new Attorney General, John Ashcroft, is a social conservative who is expected to oppose physician-assisted suicide. He was one of eight Senators who unsuccessfully urged Attorney General Janet Reno to uphold the DEA Administrator's position that using controlled substances for physician-assisted suicide was not a "legitimate medical purpose" under the Controlled Substances Act. On 1/25/01, Oregon Senator Gordon Smith wrote a letter to President Bush after learning that the President was considering an executive order directing enforcement of the Controlled Substances Act against physicians involved in assisted suicide or euthanasia. Senator Smith urged that any executive order include provisions that (1) controlled substances could be used to relieve pain even if they hasten death, (2) the authority of the DEA was not being expanded or modified, and (3) the executive order would not be applied retroactively against Oregon physicians. In February 2001, Oregon Senator Ron Wyden wrote a letter to Attorney General Ashcroft asking that Oregon's law not be overturned.

c. Likely court challenges. Oregon's Attorney General, as well as private parties such as physicians and patients, are expected to file suit in federal court if either Congress or the Bush administration seek to overturn the Oregon Death with Dignity Act. The plaintiffs' claims are likely to include violation of states' rights under the Tenth Amendment.

3. Federal legislation

a. Pain Relief Promotion Act. On 6/17/99, Senator Don Nickles and Representative Henry Hyde introduced the Pain Relief Promotion Act of 1999 (HR 2260/SB 1272), which would (1) amend the federal Controlled Substances Act to prohibit the "intentional dispensing, distributing, or administering of a controlled substance" for purposes of assisted suicide or euthanasia, (2) instruct the Attorney General to "give no force and effect to State law authorizing or permitting assisted suicide or euthanasia," and (3) establish research, educational, and training programs on pain management and palliative care. Although the House of Representatives passed HR 2260 on 10/27/99 by a vote of 271 to 156, the Senate failed to approve the bill before Congress adjourned in December 2000. Senator Nickles has indicated that he will reintroduce the proposed legislation in 2001, but the chances for passage have been diminished by the results of the 2000 Congressional elections. Oregon Senator Ron Wyden was prepared to filibuster against the bill in the Senate.

b. President Bush's position. President George Bush opposes physician-assisted suicide and believes the federal government can find that using controlled substances for aid in dying is not a "legitimate medical purpose" under the Controlled Substances Act.

OTHER NATIONAL DEVELOPMENTS

1. Dr. Jack Kevorkian

a. Pending appeal. On 3/26/99, Dr. Jack Kevorkian was convicted by a jury of second-degree murder and illegal delivery of a controlled substance in connection with the death of Thomas Youk by lethal injection. Kevorkian will not be eligible for parole until May 2007. On 11/12/99, Kevorkian's lawyer Mayer Morganroth filed an appeal with the Michigan Court of Appeals to reverse Kevorkian's conviction and dismiss the case or order a new trial. Grounds for appeal include a Fifth Amendment claim that a prosecutor improperly referred to Kevorkian's failure to testify, a Ninth Amendment claim of a patient's right to physician assistance in dying, and a claim of ineffective assistance of counsel.

b. ABC suit against Department of Corrections. On 7/13/00, Genesee County Circuit Court Judge Robert Ransom ordered Michigan Department of Corrections director Bill Martin and deputy director Dan Bolden to permit ABC's Barbara Walters to conduct a face-to-face interview with Dr. Kevorkian for the television program "20/20." ABC claimed that the defendants had arbitrarily and unconstitutionally applied a new policy barring cameras and recording devices in the state's 39 prisons. After the Michigan Court of Appeals blocked the lower court order on 7/28/00, ABC's attorney indicated that the network may seek an expedited appeal.

c. Analysis of deaths in Oakland County. The 12/7/00 issue of the New England Journal of Medicine included correspondence from three University of South Florida researchers and L.J. Dragovic, medical examiner for Oakland County, Michigan, reporting on their clinical analysis of the 69 persons who died with the assistance of Dr. Kevorkian in Oakland County between 1990 and 1998. Based on a review of

data from the medical examiner's files, including autopsy findings, the correspondents concluded that only 25% of the patients were terminally ill, 72% had had a recent decline in health status that may have precipitated the desire to die, 71% were women, and persons who were divorced or had never married were "overrepresented." The authors wrote that the data suggested the "need for a better understanding of the familial and psychosocial context of decision making at the end of life," as well as the "vulnerability of women and groups of men (i.e., those not married and those coping with serious illness) to physician-assisted suicide and euthanasia, particularly when clinical safeguards are lacking." Dragovic and Kevorkian have been described as "bitter enemies" as a result of Kevorkian's activities in Michigan.

2. New trial ordered for Utah physician. On 1/9/01, Utah Second District Judge Thomas L. Kay granted a new trial to Dr. Robert Weitzel, a psychiatrist who was convicted by a jury in July 2000 of two counts of second-degree felony manslaughter and three counts of misdemeanor negligent homicide in connection with the deaths of five elderly patients at the geriatric psychiatric unit of the Davis Hospital and Medical Center in Layton, Utah, during a 16-day period from late 1995 to early 1996. Prosecutors had contended that all five patients were admitted for dementia, not for life-threatening diseases, and that Weitzel killed them with lethal doses of morphine, while the defense had contended that Weitzel merely provided comfort care. Weitzel's motion for a new trial was granted on the ground that prosecutors failed to disclose pretrial statements from Dr. Perry Fine, a University of Utah Medical Center physician and expert in pain management and end-of-life care, that could have aided Weitzel's defense. Prosecutors are expected to appeal Judge Kay's decision. Family members of one of the patients have filed a civil lawsuit against Weitzel, and his Utah medical license has been suspended.

MEDICAL DEVELOPMENTS

1. Oregon conference on improving care of the dying. In October 2000, the Oregon Health Science University Center for Ethics in Health Care convened its second conference of health care leaders in Portland, called "Improving Care of the Dying: Change Agents in Action." Providers reported on improvements made in end-of-life care since the first conference in October 1999, and family members described the experiences of their relatives who had died. Researchers also reported on studies showing that patients continued to experience significant pain near death.

2. Physician group opposes assisted suicide. In October 2000, the Board of Regents of the American College of Physicians-American Society of Internal Medicine (ACP-ASIM) voted at its quarterly meeting to not support physician-assisted suicide. ACP-ASIM is the second largest physician group in the United States.

3. National report on end-of-life care. On 10/12/00, the National Coalition on Health Care and the Institute for Healthcare Improvement issued a report, *Promises to Keep: Changing the Way We Provide Care at the End of Life*, which profiles nine institutions and organizations providing quality end-of-life care and offers "seven promises" that a health care professional can make to a dying patient to assure the person of the best care possible. Copies of the report are available at http://www.nchc.org. See also Mike Mitka, *Suggestions for Help When the End Is Near*, 284 JAMA 2441 (2000).

4. JCAHO pain management guidelines. Effective 1/1/01, the Joint Commission on Accreditation of Healthcare Organizations implemented new accreditation standards requiring that accredited institutions, principally hospitals, demonstrate appropriate pain management. The standards require institutions to regularly assess and record patients' pain level and then treat it appropriately.

5. Survey of pain sufferers. A survey of 801 visitors to the "pain.com" website maintained by the Dannemiller Memorial Educational Foundation revealed that 53% of those suffering from severe pain were dissatisfied with the care they had received. Of the 92% who reported seeking help from a physician, the average number of physicians visited was 7.2. Forty-nine percent of respondents had suffered from severe pain for five or more years, and 28% had suffered for more than 10 years. When asked what they would do if a terminally ill loved one suffered from severe chronic pain, 53% said they would "go along" with the family member's wishes for assisted suicide, 30% said they would do everything they could to prevent it, and 6% said they would do nothing at all. Of respondents who said they would "go along" with the family member's wishes, 27% said they would help the person carry out the assisted suicide and 26% said they would protest but go along.

6. Recent articles

    a. A special supplement to the Journal of the American Geriatrics Society, published in May 2000, focused

on findings from the Study to Understand Prognoses and Preferences for Outcomes and Risks of Treatment (SUPPORT) and its companion study, the Hospitalized Elderly Longitudinal Project (HELP). 48 J. Am. Geriatrics Soc'y S1-S233 (May 2000). The issue included 29 articles containing new analyses and conclusions, reviews of previously published findings, and an annotated bibliography of the 67 previously published articles from SUPPORT and HELP as of 12/31/99.

b. Andrew Thorns & Nigel Sykes, *Opioid Use in Last Week of Life and Implications for End-of-Life Decisionmaking*, 356 The Lancet 398 (2000). Researchers who retrospectively examined the use of opioids in 238 patients who had died at St. Christopher's Hospice in London showed that patients who received opioid increases at the end of life did not show shorter survival than those who received no increases.

c. On 11/15/00, the Journal of the American Medical Association published a theme issue on end-of- life care. 284 JAMA 2411-2550 (2000). The following articles were included in the issue:

(1) Ezekiel J. Emanuel et al., *Attitudes and Desires Related to Euthanasia and Physician-Assisted Suicide Among Terminally Ill Patients and Their Caregivers*, 284 JAMA 2460 (2000) [interviews of 988 terminally ill patients between March 1996 and July 1997 showed that 60.2% supported euthanasia and physician-assisted suicide in a hypothetical situation, but only 10.6% seriously considered these options for themselves at the time of the first interview; many patients had changed their minds when they were re-interviewed two to six months later].

(2) Karen E. Steinhauser et al., *Factors Considered Important at the End of Life by Patients, Family, Physicians, and Other Care Providers*, 284 JAMA 2476 (2000) [national survey of seriously ill patients, recently bereaved family, physicians, and other care providers assessed importance of 44 attributes of quality at the end of life; all groups agreed on the importance of pain and symptom management, preparation for the end of life, opportunity to gain a sense of completion, and strong relationships between patients and health care professionals that emphasized more than just the patient's disease].

(3) Maria J. Silveira et al., *Patients' Knowledge of Options at the End of Life*, 284 JAMA 2483 (2000) [survey of 728 patients seen in Oregon as outpatients during May and June 1999 revealed that many were not accurately informed about legal options at the end of life; percentage of respondents answering correctly was 69% for refusal of life-sustaining treatment, 46% for withdrawal of life-sustaining treatment, 41% for double effect, 32% for active euthanasia, and 23% for assisted suicide; 62% of respondents did not distinguish between assisted suicide and euthanasia].

(4) Alan Meisel, *Seven Legal Barriers to End-of-Life Care*, 284 JAMA 2495 (2000) [members of the American College of Physicians-American Society of Internal Medicine (ACP-ASIM) End-of-Life Care Consensus Panel identify seven legal myths that raise barriers to proper end-of-life care].

d. Kathy Faber-Langendoen & Paul N. Lanken, *Dying Patients in the Intensive Care Unit: Forgoing Treatment, Maintaining Care*, 133 Annals Internal Med. 886 (2000) [authors discuss the appropriate treatment of dying patients in the intensive care unit].

e. William Breitbart et al., *Depression, Hopelessness, and Desire for Hastened Death in Terminally Ill Patients with Cancer*, 284 JAMA 2907 (2000) [survey of 92 terminally ill cancer patients in a palliative care hospital in New York City during 1998-99 revealed that 17% of patients displayed a high desire for hastened death, 16% met criteria for a current major depressive episode, and desire for hastened death was significantly associated with both a clinical diagnosis of depression and hopelessness].

f. Susan W. Tolle et al., *Family Reports of Barriers to Optimal Care of the Dying*, 49 Nursing Research 310 (2000) [researchers conducted telephone interviews of 475 family members involved in caring for dying patients in Oregon during November 1996 through December 1997; data showed a high frequency of advance planning (68%), a high level of respect by clinicians for patient-family preferences about end-of-life location and treatment decisions, and high family satisfaction with care, although pain was a problem in one-third of cases].

g. Susan E. Hickman et al., *Physicians' and Nurses' Perspectives on Increased Family Reports of Pain in Dying Hospitalized Patients*, 3 J. Palliative Med. 413 (2000) [in October-December 1998, researchers

surveyed 411 Oregon physicians and nurses to assess their views about the reasons for increased family reports of moderate and severe pain in dying hospitalized patients beginning in October 1997; 96% of participants identified increased family awareness of pain management as a contributing factor, 66% identified decreased physician prescribing of pain medication, and 59% identified reduced nurse administration of pain medication; physicians cited fears of scrutiny by the Oregon Board of Medical Examiners and the federal Drug Enforcement Administration as the primary causes of decreased physician prescribing].

INTERNATIONAL DEVELOPMENTS

1. Australia

   a. Dr. Nitschke. Dr. Philip Nitschke has begun holding information clinics on euthanasia in various locations for healthy individuals who want to learn about their options when facing death. Nitschke is working on an oxygen tent that allows terminally ill patients to set oxygen at lethally low levels. He also has incorporated the Voluntary Euthanasia Research Foundation under Northern Territory law and is building a laboratory on his rural Darwin property to accommodate research on possible death-inducing agents.

   b. Norma Hall. New South Wales police are investigating the death of Norma Hall, a 72-year-old cancer patient who died in her Sydney home on 1/20/01. Dr. Philip Nitschke had been caring for Hall after she decided to die by stopping eating and drinking. Nitschke had assembled a team of physicians sympathetic to voluntary euthanasia to co-sign a prescription for sedatives, but Hall died after drinking the remains of a bottle of high-strength morphine which was prescribed for her by palliative care staff from Prince of Wales Hospital in Randwick.

   c. Physician and family members charged with murder. Following a three-day preliminary hearing, Magistrate Jeremy Packington ruled on 11/28/00 that the evidence was insufficient to commit West Australian urologist Dr. Daryl Allan Stephens for trial on charges that he murdered 48-year- old Freeda Patricia Hayes on 2/4/00 at the Murdoch Community Hospice in Perth. Hayes, who was suffering from terminal kidney cancer, allegedly died after being given a lethal intravenous injection of atracurium and midazolam. The magistrate also dismissed murder charges against Hayes' brother and sister, Warren Hayes and Lena Vinson, who allegedly were present while the lethal injection was being administered. Despite the magistrate's ruling, in January 2001 West Australia's Director of Public Prosecutions Robert Cock presented an indictment to the Supreme Court reinstating the murder charges against all three defendants and adding an alternative charge of aiding a suicide.

   d. Revision to guidelines on dying with dignity. In November 2000, the Department of Health issued a discussion paper on the *Dying with Dignity–Interim Guidelines on Management*, which were written seven years ago. The government was expecting submissions over the next three months from more than 900 interest groups, including churches, medical associations, hospital and hospice operators, and consumer groups. Specific questions to be addressed include how to define imminent death, whether intravenous feeding should still be considered a medical treatment, how physicians should handle a disagreement between two family members over whether treatment should be withdrawn, and whether legislation should be passed authorizing living wills. Copies of the discussion paper can be downloaded from the Department of Health website, http://www.health.nsw.gov.au. Revised guidelines may be issued by the end of 2001.

   e. West Australia election campaign. MP Norm Kelly, whose Voluntary Euthanasia Bill was introduced in 1997 but has been ignored by the coalition government, has called for debate on the bill early in 2001. Opposition Labor leaders indicated that they would support such a debate if successful in the election.

   f. South Australia. MP Sandra Kanck plans to introduce voluntary euthanasia legislation in the South Australian parliament, which defeated a similar proposal in 1995. The proposed legislation is patterned after recent legislation in the Netherlands.

   g. National conference. The Voluntary Euthanasia Research Foundation will host an Australian national conference titled "Dying in Australia -- Taking Control" on August 3-5, 2001, in Broken Hill, New South Wales. The conference will address the issues confronting the national and international voluntary

euthanasia movement.

2. Belgium

    a. Draft euthanasia bill. On 12/22/99, the ruling six-party coalition of French and Flemish Socialists, Liberals, and Greens, which ousted the Christian Democrats from power in mid-1999, introduced a draft euthanasia bill in the Belgian Senate. The draft bill would legalize euthanasia for competent adults with an incurable illness causing unbearable and constant suffering, as well as for patients in a persistent vegetative state who had made a request within the prior five years before two witnesses to have their life ended in such circumstances. A national evaluation committee of physicians and lawyers would be set up to ensure that the law is followed. In January 2001, senators from two parliamentary working groups voted 17-10 to adopt the compromise draft text of controversial Article Three of the bill, which sets out the conditions under which patients may ask for a physician's assistance in dying. Under the draft text, the opinion of a second physician would be required for a terminally ill patient. In the case of a patient who is not terminally ill, the opinion of a third physician (either a psychiatrist or a specialist in the patient's illness) would be required, and at least one month would have to elapse between the patient's request and the act of euthanasia. Seven sections of the draft bill remain to be finalized. The bill is expected eventually to pass, despite opposition from Christian Democrats, Catholics, and the national medical association.

    b. Survey of end-of-life decisions in medical practice. A survey of physicians regarding 1,925 deaths in Flanders during January-April 1998, using the same questionnaire employed in earlier surveys in the Netherlands and Australia, revealed that 4.4% of deaths involved euthanasia or physician-assisted suicide. Overall results generally were similar to those in the Netherlands, except for a significantly higher incidence in Flanders of physicians intentionally ending the lives of patients without their explicit request. Luc Deliens et al., *End-of-Life Decisions in Medical Practice in Flanders, Belgium: A Nationwide Survey*, 356 The Lancet 1806 (2000).

3. Canada

    a. Legislation. New Democrat MP Svend Robinson, who supports legalization of assisted dying, has announced plans to again move that the House of Commons appoint a special committee to review the provisions of the Canadian Criminal Code dealing with euthanasia and physician-assisted suicide. In 1998, the House of Commons defeated a similar motion by a vote of 169-66.

    b. Robert Latimer. On 1/18/01, the Supreme Court of Canada upheld the conviction and sentencing of Robert Latimer, who was convicted by a jury in 1997 of second-degree murder for the mercy killing of his disabled 12-year-old daughter. *R. v. Latimer*, 2001 SCC 1. Although the jury had recommended parole after one year and the trial judge had granted a special constitutional exemption from the mandatory sentence, the Saskatchewan Court of Appeal upheld the mandatory life sentence, without possibility of parole for 10 years. The Supreme Court rejected Latimer's claims that the trial judge's actions rendered his trial unfair and that the sentence was unconstitutional because it constituted cruel and unusual punishment. The federal cabinet or the Governor General has the authority to grant a pardon to Latimer after considering any recommendation of the National Parole Board.

    c. Public opinion poll. An Angus Reid Group telephone poll of 1,501 Canadians conducted during December 2000 showed that 73% thought that Robert Latimer's mandatory life sentence was too harsh, 23% thought that the penalty was appropriate, and 4% had no opinion. When asked whether mercy killing should be illegal, 41% said no, 38% said yes but those convicted should be treated with leniency and compassion, and 16% said that mercy killing should be treated like any other murder.

    d. Jim Wakeford. On 2/7/01, provincial Justice Katherine Swinton dismissed a constitutional lawsuit filed by AIDS activist Jim Wakeford, who had sought the right to die with the help of a physician. Justice Swinton found that it was "plain and obvious" that the suit could not succeed in light of the Supreme Court's decision in the Sue Rodriguez case. Wakeford announced that he will appeal to the Court of Appeal.

4. France. Nurse Christine Malevre will face trial in 2001 on seven counts of murder for allegedly practicing euthanasia to relieve the suffering of 11 elderly, terminally ill cancer patients who died in 1997 and 1998 at a hospital in Mantes-la-Jolie west of Paris.

5. Great Britain

    a. Police investigate hospital deaths. A team of 30 police officers is investigating the deaths of more than 50 patients in the care of Dr. Ann David, a consultant anesthetist at Basildon hospital, after a colleague raised concerns about her alleged use of high doses of painkillers. The inquiry may spread to David's

previous employer, Wordsley hospital at Stourbridge in the West Midlands.

b. Effect of new Human Rights Act. On 10/6/00, Dame Elizabeth Butler-Sloss, President of the High Court Family Division, ruled that the state's obligation to protect the right to life under the Human Rights Act (which went into effect in October) did not prevent the withdrawal of artificial nutrition and hydration from two women in a persistent vegetative state. The applications for withdrawal, which were supported by the women's families and by the relevant National Health Service trusts, were authorized under guidelines for physicians introduced in 1999 by the British Medical Association after consultation with the Department of Health. Both patients died peacefully after artificial nutrition and hydration were withdrawn.

c. Survey of cancer patients. A survey of cancer patients by CancerBACUP, a national cancer information charity, showed that 70% of the 157 patients surveyed had experienced pain as a result of their cancer and 77% had experienced pain as a result of their treatment. Only 46% had been told to expect pain, and more than one-third said they had not been given sufficient information on pain control. In addition, 64% of patients reported that they had experienced adverse effects from their treatment for pain (with nausea, vomiting, constipation, and drowsiness being the most common problems), but only 46% had been warned of these potential side effects. A majority (54%) of patients said that they had not been sufficiently involved in making decisions about their treatment for pain. Results of the survey were reported at 321 Brit. Med. J. 1309 (2000).

6. India. On 2/22/01, the Patna High Court dismissed the writ petition of Tarkeshwar Chandrawanshi, who had sought euthanasia for his 26-year-old wife, Kanchan Devi, who had been in a coma for 16 months.

7. Italy. The Green Party has submitted to the Italian Senate three legislative proposals aimed at guaranteeing the right to a dignified death. One of the proposed bills states that "every individual has a right to choose consciously the method used to end one's existence." On 7/12/00, Prime Minister Giuliano Amato said that he had asked the National Bioethical Committee to express its opinion on the subject.

8. Netherlands

a. Proposed legislation. On 11/28/00, the lower house of the Dutch Parliament voted 104-40 to legalize physician-assisted suicide and euthanasia, which have been technically illegal in the Netherlands but not prosecuted if physicians followed prescribed guidelines. Approval by the upper chamber is expected by early 2001. In July 2000, the Dutch government dropped from the proposed legislation a controversial provision that would have allowed terminally ill children age 12 to 16 to request aid in dying even if their parents objected. The proposed legislation requires that (1) the physician know the patient well, (2) the physician determine that the patient's request is voluntary and well-considered, (3) the patient face unremitting and unbearable suffering, (4) the patient understand his medical situation and prognosis, (5) the physician and patient agree that there is no reasonable alternative acceptable to the patient, (6) the physician consult at least one other independent physician who has examined the patient, and (7) the physician carry out the termination of life in a medically appropriate manner. The physician must report the death to a three-member commission consisting of a physician, a lawyer, and an expert on ethical issues.

b. Death of patient with "unbearable suffering." On 10/30/00, a court in Haarlem acquitted Dr. Philip Sutorius of charges in connection with the April 1998 assisted suicide of Edward Brongersma, an 86-year-old former politician who had no serious physical or psychiatric illness but was obsessed with his "physical decline" and "hopeless existence." Public prosecutors had called for Sutorius to be given a three-month suspended prison sentence, but the court found that Brongersma was suffering "hopelessly and unbearably," one of four criteria protecting Dutch physicians against prosecution. A spokesperson for the Royal Dutch Medical Association said that the definition of "unbearable suffering" had been stretched too far to include "social decline." The public prosecutions office is expected to appeal to the High Court.

9. New Zealand. Dr. Philip Nitschke plans to conduct euthanasia clinics in New Zealand during April 2001. On 10/10/00, New Zealand's national health spokesperson Wyatt Creech said that euthanasia was a conscience issue and the party did not have a position on it.

10. Poland. On 1/31/01, 68 of the 460 legislators in Poland's lower house of parliament sent a letter to Prime Minister Jerzy Buzek claiming that the Netherlands should be called before the European Court of Human Rights for allowing euthanasia. The legislators, who are from the governing center-right AWS-Solidarity coalition, claimed that Dutch law violates a 1950 Council of Europe convention and Poland has an obligation to ensure that other signatories observe the convention.

11. Switzerland. In October 2000, Zurich authorities announced a change in policy that will allow residents of state retirement homes to engage in assisted suicide effective 1/1/01. Switzerland does not prosecute nonphysicians who assist in suicides unless they act with a selfish motive, and the Swiss organization Exit assists in suicides, notifies police, and provides a detailed written account with dates, times, and witnesses. The new policy does not apply to patients in public and private hospitals or to residents of private retirement homes.

12. Venezuela. The Health Subcommittee of the Presidential Commission for Social Security is reviewing a draft of the government's proposed legislation that would legalize active euthanasia for patients who are terminally ill or suffering from a chronic, painful, and irreversible illness. President Hugo Chavez and the Council of Ministers, as well as the National Assembly, are expected to debate the proposed legislation when the final version is available. The Catholic Church has launched a campaign against the bill.

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