RECENT DEVELOPMENTS IN PHYSICIAN-ASSISTED SUICIDE

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LITIGATION

Oregon v. Ashcroft, 368 F.3d 1118 (9th Cir. 2004), cert. granted sub nom. *Gonzalez v. Oregon*, 125 S.Ct. 1299, 161 L.Ed.2d 104 (U.S. Feb. 22, 2005) (No. 04-623)

Case filed. On 11/7/01, in response to Attorney General John Ashcroft's directive that prescribing lethal medication was not a legitimate medical purpose under the Controlled Substances Act (CSA), the State of Oregon filed a complaint in the U.S. District Court for the District of Oregon seeking a declaratory judgment and injunctive relief. The court allowed several individual patients, a physician, and a pharmacist to intervene as plaintiffs supporting the position of the state of Oregon.

U.S. District Court decision. On 4/17/02, Judge Robert E. Jones issued his written decision in favor of plaintiff and plaintiff-intervenors. *Oregon v. Ashcroft*, 192 F.Supp.2d 1077 (D.Or. 2002). Although plaintiff and plaintiff-intervenors made statutory, administrative, and constitutional arguments, Judge Jones based his decision on statutory grounds exclusively, holding that neither the plain language of the CSA, its legislative history, nor the cases cited supported defendants' argument that Congress intended to delegate to the Attorney General the authority to override a state's determination as to the "legitimacy" of a medical practice.

Ninth Circuit decision. On 5/26/04, a three-judge panel of the Ninth Circuit Court of Appeals affirmed the U.S. District Court by a vote of 2 to 1. *Oregon v. Ashcroft*, 368 F.3d 1118 (9th Cir. 2004). The majority held that Congress did not authorize the Attorney General to determine that physician-assisted suicide violates the CSA. On 8/11/04, the three-judge panel denied a rehearing by a vote of 2 to 1; en banc review also was denied because no active judge had requested it.

U.S. Supreme Court. On 2/22/05, the U.S. Supreme Court granted Attorney General Ashcroft's petition for certiorari. *Gonzales v. Oregon*, 125 S.Ct. 1299, 161 L.Ed2d 104 (Feb. 22, 2005) (No. 04-623). The petitioners' brief was filed on 5/12/05, by which time 15 amicus briefs had been filed in support of petitioners by religious, right-to-life, disability, medical, political, and other groups. Respondents' briefs are due on 7/18/05. The Court is likely to hear arguments during fall 2005 and will issue its opinion before the end of June 2006.

LEGISLATION

Arizona

Physician-assisted suicide. On 1/18/05, Representative Linda Lopez and 17 other Democrats introduced HB 2313, which is similar to the Oregon Death with Dignity Act. On the same date, they also introduced HB 2311, 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 previously, the bills died in committee. However, Lopez plans to introduce the bills again.

Chronic disease and pain management task force. On 4/18/05, Arizona's governor signed SB 1132, which creates a Chronic Disease and Pain Management Task Force. The task force is directed to evaluate state laws that impact pain management, review professional education, analyze available information and resources, and submit by 11/15/06 a report of its findings and recommendations to improve access and to integrate pain management into the practice of health care professionals.

California

Bill introduced. In 1999, Assemblywoman Dion Aroner introduced a bill in the California legislature patterned after the Oregon Death with Dignity Act but dropped it for lack of support. On 2/17/05, Assemblywoman Patty Berg and Assemblyman Lloyd Levine introduced a similar bill, AB 654 (the California Compassionate Choices Act).

Public opinion poll. A Field Poll of 503 California residents conducted during 2/8-2/17/05 showed that 70% favored allowing physician-assisted suicide, 22% opposed it, and 8% were undecided. When asked whether they would want their doctor to assist them in dying if they were expected to die within six months, 68% said yes, 28% said no, and 4% were undecided. Support for physician-assisted suicide as measured by religious affiliation was 63% for Protestants, 65% for Catholics, 83% for other religions, and 83% for those with no religious preference.

Opposition to bill. Opponents of the bill have formed an organization called Californians Against Assisted Suicide to operate a website and rally opposition. At their annual meeting in March 2005, the House of Delegates of the California Medical Association voted to "maintain current and longstanding policy against the practice of physician-assisted suicide, rather than vote to approve resolutions that would have changed that policy."

Assembly. After lengthy and contentious hearings, AB 654 was approved by the Assembly's Judiciary Committee on 4/18/05 by a vote of 5-4. On 5/26/05, the Assembly's Appropriations Committee approved the bill by a vote of 11-6. Because of uncertainty about

whether AB 654 would pass on the Assembly floor, Assemblywoman Berg moved on 6/2/05 that the bill be placed on inactive status in the Assembly. However, through a procedure known as "gut-and-amend," the provisions of AB 654 were substituted into a different bill, AB 651, already pending before the Senate.

Senate. AB 651 is expected to be assigned to either the Senate Judiciary or the Senate Health Committee for hearings before being considered on the Senate floor.

Governor Schwarzenegger. The position of California Governor Arnold Schwarzenegger on the bill is unknown, although the bill's supporters say a senior aide indicated that the governor is "open-minded." State Department of Health officials are preparing an assessment of the bill for Kim Belshe, the director of Health and Human Services, who ultimately would recommend a position to the governor.

Oregon

Methadone use. Use of the narcotic methadone to treat chronic pain patients doubled in Oregon between 2002 and 2004, and Oregonians now consume more methadone per capita than in any other state, at a rate nearly three times the nationwide average. Consumption began soaring in the late 1990s, when the Oregon Death with Dignity Act focused greater attention on end-of-life care. Methadone is an attractive pain medication because of its low cost, but the number of methadone-related deaths in Oregon has increased from 23 in 1999 to 104 in 2004 in part because impatient users seeking to decrease their level of pain increase their dosage too early.

Assisted-suicide attempt fails. David E. Prueitt, a 42-year-old Estacada man with lung cancer who took a supposedly lethal dose of medication on 1/30/05, woke up nearly three days later. Coherent and alert, he survived until 2/15/05 before dying of natural causes. Prueitt was the first patient to regain consciousness since the Oregon Death with Dignity Act went into effect in 1997. The Oregon Board of Pharmacy is conducting an inquiry into the pharmaceutical aspects of the medication used, including testing the 100 empty Seconal capsules retrieved from Prueitt's home.

Deaths during 2004. On 3/10/05, the Oregon Department of Human Services issued a report on deaths during 2004 under the Oregon Death with Dignity Act. The complete report is available on-line at www.oregon.gov/DHS/ph/pas. The report included the following information:

Prescriptions written. In 2004, 60 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, and 68 in 2003.

Number of patients. In 2004, 37 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, and

42 in 2003. However, the number has remained small compared to the total number of deaths in Oregon, with about 12 per 10,000 Oregonians dying by physician-assisted suicide. Of the 60 persons who received prescriptions under the Act during 2004, 35 died after taking lethal medication, 13 died from their underlying illness, and 12 were alive as of the end of 2003. An additional two persons who received prescriptions during 2003 died after taking their medications in 2004.

Patient characteristics. Median age of the 37 patients who died was 64, 100% were white, 51% were female, 41% were married, 43% lived in the Portland metropolitan area, and 51% were college graduates. Seventy-eight percent of the patients who died had cancer, 89% were enrolled in a hospice program, and all patients had health insurance. (Compassion in Dying of Oregon, which represented 29 of the 37 patients who died, has reported that 17 of the 29 patients were Democrats, eight were Republicans, and four were "other." As to religious affiliation, seven were Protestant, four were Catholic, three were Unitarians, two were Jewish, and 13 said "other.")

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 (92%), loss of autonomy (87%), loss of dignity (78%), loss of control of bodily functions (65%), and being a burden on family, friends, or caregivers (38%). Eight patients cited concerns about pain control, and two patients voiced concerns about the financial implications of treatment.

Mental health evaluations. Two of the 37 patients (5%) received a psychiatric or psychological consultation.

Medical information. During 2004, all lethal medications prescribed were barbiturates. The physician was present when the medication was ingested in 16% of cases, with other health care providers present in 68% of cases. Median time from taking the medication to unconsciousness was five minutes (individual times ranged from 1-30 minutes). Median time from taking the medication to death was 25 minutes (individual times ranged from 5 minutes to 31 hours). No patient regained consciousness after taking the medication. Three patients vomited after taking the medication, including one who lived for 31 hours after having ingested only about one-third of the intended dose. One case was referred to the Oregon Board of Medical Examiners for failure to submit a physician survey in a timely manner, filing an incomplete Attending Physician's Compliance Form, and witnessing of signatures on a patient request form, but the referral did not result in disciplinary action.

Physician characteristics. A total of 40 physicians prescribed lethal medications to 60 persons. The physicians' median years in practice was 22.

Oregon Health Division statistics for 2004 generally were consistent with statistics for 1998-

2003, although referral to a specialist for a psychiatric or psychological consultation has declined, falling from 31% in 1998 to 5% in 2003 and 2004. Rates of participation in physician-assisted suicide decrease with age, but are higher among those patients who are divorced or never married, those with more years of education, and those with amyotrophic lateral sclerosis (Lou Gehrig's disease), HIV/AIDS, or cancer.

Vermont

Bill introduced. H. 318, which was patterned after the Oregon Death with Dignity Act, was introduced in the Vermont General Assembly in February 2003 and carried over to the 2004 legislative session, where it died. On 2/4/05, another bill patterned after the Oregon Death with Dignity Act was introduced in the 2005 legislative session as H. 168.

Bill fails to receive vote. In April 2005, the House Human Services Committee listened to three days of emotion-packed testimony about H. 168. Despite the fact that eight of the 11 committee members had expressed some support for H. 168, committee chair Ann Pugh announced that the committee was unlikely to vote on the bill before the end of the session. The committee took no further action, and the legislature adjourned on 6/4/05. However, the House Human Services Committee is expected to take up physician-assisted suicide legislation again next year.

Wisconsin. On 5/31/05, Senator Fred Risser and Representative Frank Boyle, Democrats who have spent more than 10 years trying to get the Wisconsin legislature to pass a law similar to the Oregon Death with Dignity Act, introduced SB 224. The bill was referred to the Senate Committee on Health, Children, Families and Long Term Care, but Republican committee chair Carol Roessler says she does not intend to hold a hearing on the issue. The bill has never received a vote in the full Assembly or Senate and often has not even been given a public hearing in past legislative sessions.

Federal legislation. In the wake of Congressional action in the Terri Schiavo case, Oregon Senator Ron Wyden said that he will once again strenuously object to any attempts to limit the Oregon Death with Dignity Act by federal legislation. Senator Wyden's threatened filibuster derailed the proposed Pain Relief and Promotion Act of 1999.

OTHER NATIONAL DEVELOPMENTS

FOX News opinion poll. A national telephone poll of 900 registered voters conducted by Opinion Dynamics Corporation for FOX News on 3/1-3/2/05 found that 59% said that as Terri Schiavo's guardian they would remove her feeding tube, 24% would keep the tube inserted, and 17% were uncertain. Seventy-four percent said that they would want their own guardian to remove their feeding tube in such a situation, while 15% said they would not. Forty-five percent of those polled would leave this type of decision to the patient's spouse (about 5% less than in a similar 2003 poll), 38% to the family, 3% to the patient's doctor, and 2% to the government. As between a patient's spouse and parents, 42% of women and 34% of men said that the parents should decide if a patient is kept alive; 39% of women and 52% of men said that the spouse should decide.

Time Magazine opinion poll. A Time Magazine poll conducted during March 2005 showed that Americans approve of the Oregon Death with Dignity Act by a margin of 52% to 41%.

Harris opinion poll. A national telephone survey of 1,010 adults was conducted by The Harris Poll on 4/5-4/10/05. The survey showed a 70% to 29% majority in favor of permitting doctors to "comply with the wishes of a dying patient in severe distress who asks to have his or her life ended." A 67% to 32% majority would like their states to adopt a law such as Oregon's, and a 64% to 35% majority disagrees with the U.S. Supreme Court ruling that individuals do not have a constitutional right to physician-assisted suicide. Seventy-two percent of those polled said that, if they had a living will, it would allow food and water to be withheld or withdrawn if they were unconscious and, to a reasonable degree of medical certainty, would never regain consciousness. Thirty-four percent reported that they have living wills.

Huntington Williams. Early in 2005, Huntington Williams, a 74-year-old man, was charged with second-degree manslaughter based on allegations that he helped a friend with advanced prostate cancer use a gun to commit suicide. Senator Andrew Roraback then announced plans to introduce a bill that would allow individuals accused of assisting suicide to be eligible for a special form of probation, known as accelerated rehabilitation, that allows first-time offenders to have their criminal records expunged after a period of probation. In April 2005, however, a judge ruled that Williams had not "caused" but merely aided in his friend's death, making Williams subject to parole for one year and eligible for accelerated rehabilitation.

Cardinal Newman Society report. The Cardinal Newman Society (a national organization dedicated to the renewal of Catholic identity at America's 219 Catholic colleges and universities) published a special research report in the June 2005 issue of *Crisis* magazine, documenting the activities of 15 professors at leading Catholic universities. These professors have publicly rejected Vatican teaching on euthanasia and assisted suicide.

Advance directive forms. Aging With Dignity, a Florida nonprofit group devoted to supporting end-of-life wishes, reported that it received more than 800,000 requests for copies of its do-it-yourself form, known as Five Wishes, between March and June 2005 , largely because of increased attention to end-of-life issues resulting from the Terri Schiavo case. Compassion & Choices, which provides

state-specific advance directive documents and instructions in response to telephone and on-line inquiries, reported filling more than 26,000 requests during the same period.

Arizona advance directive registry. The Arizona Secretary of State's office is maintaining a free electronic database allowing advance directives to be registered by Arizona residents. Applicants receive a wallet-sized card with an identification number and a password, which can be used by physicians and relatives to access the records in an emergency. Hospice of the Valley is funding the system's $60,000 annual cost by donations.

MEDICAL DEVELOPMENTS

DEA guidelines on prescribing painkillers. On 8/11/04, the federal Drug Enforcement Administration and top pain specialists jointly issued detailed new guidelines spelling out proper prescribing of morphine-based painkillers, including how to diagnose severe pain. The guidelines, which were prominently posted on the DEA's website, were developed over more than a year and were intended to strike an appropriate balance between curbing drug-trafficking and permitting adequate treatment of patients in intractable pain. In early October 2004, however, the DEA took the guidelines off its website and then announced in the 11/16/04 Federal Register that the 31-page document "contained misstatements" and "was not approved as an official statement of the agency." On 1/19/05, the National Association of Attorneys General sent a letter signed by the attorneys general of 29 states and the District of Columbia expressing concern that these actions might exert a chilling effect on the willingness of physicians to treat patients who are in pain and calling on DEA Administrator Karen P. Tandy to meet with representatives of NAAG. DEA spokesman Rusty Payne denied there had been a shift in policy and added that no meeting had been scheduled.

Physician attitudes about physician-assisted suicide. The Louis Finkelstein Institute for Social and Religious Research and HCD Research conducted a national survey of 1,000 physicians during the last week of February 2005. Fifty-seven percent of respondents believed that it is ethical to assist an individual who has made a rational choice to die due to unbearable suffering, while 39% said it is unethical. Forty-one percent favored legalization of physician-assisted suicide under a wide variety of circumstances, 30% supported legalization in a few cases only, and 29% opposed legalization in all cases. Forty-six percent said they would not personally assist a patient for any reason, 34% that they would assist a patient in a few cases, and 20% that they would assist under a wide variety of circumstances. Factors that physicians identified as the source of their attitudes included their understanding of their obligations as physicians (40%), their general moral values (24%), their view of patient autonomy (20%), and their religious beliefs (13%).

Physician attitudes about Terri Schiavo case. The Louis Finkelstein Institute for Social and Religious Research and HCD Research conducted a national survey of 851 physicians during 3/18-3/20/05. Seventy-seven percent believed that it was medically ethical to remove Terri Schiavo's feeding tube, and 79% said it was medically ethical to "remove a feeding tube from a person for whom that feeding tube—and possibly other artificial methods—is undoubtedly their only means of staying alive." Respondents thought that a patient's spouse (83%), immediate family (65%), and peer review physicians (61%) should be required by law to be involved in a decision to remove a feeding tube from a patient for whom the tube is their only means for staying alive. Only a minority of respondents thought that professional ethicists (30%), psychiatrists (12%), clergy (11%), or lawmakers/Congress (6%) should be required by law to be involved.

Recent articles

> Judith A.C. Rietjens et al., *Physician Reports of Terminal Sedation Without Hydration or Nutrition for Patients Nearing Death in the Netherlands*, 141 Annals Internal Med. 178 (2004) [terminal sedation precedes a substantial number of deaths in the Netherlands, with

physicians indicating in about two-thirds of recent cases that they intended to hasten death in addition to alleviating symptoms].

Charlotte Verpoort et al., *Palliative Care Nurses' Views on Euthanasia*, 47 J. Advanced Nursing 592 (2004) [interviews of 12 palliative care nurses in Flanders, Belgium, revealed that their views on euthanasia were largely dependent on the degree of suffering and available palliative options in the particular case].

L.C. Kaldjian et al., *Internists' Attitudes Towards Terminal Sedation in End of Life Care*, 30 J. Med. Ethics 499 (2004), and L.C. Kaldjian et al., *Medical House Officers' Attitudes Toward Vigorous Analgesia, Terminal Sedation, and Physician-Assisted Suicide*, 21 Am. J. Hospice & Palliative Med. 381 (2004) [studies focused on attitudes of internal medicine physicians and residents in Connecticut showed that 78% of physicians and 66% of residents supported the use of terminal sedation, while about one-third of each group supported physician-assisted suicide as ethically appropriate in certain circumstances].

Jan Lavrijsen et al., *Events and Decision-Making in the Long-Term Care of Dutch Nursing Home Patients in a Vegetative State*, 19 Brain Injury 67 (2005) [study of five patients showed no standard scenario for end-of-life decisions; instead, physicians play a proactive role by evaluating the total medical treatment, and the family's attitude is a crucial factor in their ultimate decision].

N.D. Schiff et al., *fMRI Reveals Large-Scale Network Activation in Minimally Conscious Patients*, 64 Neurology 514 (2005) [team of neuroscientists used imaging technology to compare brain activity in two minimally conscious patients with that of seven healthy individuals; although the minimally conscious patients showed less than half of the overall brain activity of the healthy individuals, audiotapes of the voices of loved ones prompted a similar pattern of brain activity in all of the subjects].

Eduard Verhagen & Pieter J.J. Sauer, *The Groningen Protocol—Euthanasia in Severely Ill Newborns*, 352 New Eng. J. Med. 959 (2005) [discusses protocol developed in the Netherlands for euthanasia in infants].

Nikki Ayers Hawkins et al., *Micromanaging Death: Process Preferences, Values, and Goals in End-of-Life Medical Decision Making*, 45 Gerontologist 107 (2005) [study surveyed 337 outpatients aged 65 and older and their designated surrogate decisionmakers to determine their attitudes about using advance directives to manage end-of-life care; most did not want to mandate that specific medical treatment preferences be followed, but instead wanted to express more general preferences and give surrogates leeway in making decisions].

Veerle Provoost et al., *Medical End-of-Life Decisions in Neonates and Infants in Flanders*, 365 Lancet 1315 (2005) [survey revealed that Belgian pediatricians made end-of-life decisions that shortened an infant's life in 143 cases over the course of a year, either by withdrawing or withholding treatment or by administering lethal drugs, including 17 infants

who were killed illegally by euthanasia; 79% of physicians thought it was their professional duty, if necessary, to prevent unnecessary suffering by hastening death, and 58% supported legalization of the termination of life in some cases].

Hiroyuki Kohara et al., *Sedation for Terminally Ill Patients with Cancer with Uncontrollable Physical Distress*, 8 J. Palliative Med. 20 (2005) [study of patients in Japanese hospice suggested that sedation was effective in relieving severe, refractory physical symptoms in terminally ill patients with cancer].

Brigit R. Taylor & Robert M. McCann, *Controlled Sedation for Physical and Existential Suffering?*, 8 J. Palliative Med. 144 (2005) [case study on controlled sedation].

Susan Okie, *Physician-Assisted Suicide—Oregon and Beyond*, 352 New Eng. J. Med. 1627 (2005); Timothy E. Quill, *Terri Schiavo—A Tragedy Compounded*, 352 New Eng. J. Med. 1630 (2005); George J. Annas, *"Culture of Life" Politics at the Bedside—The Case of Terri Schiavo*, 352 New Eng. J. Med. 1710 (2005) [discussing current events].

Robert A. Pearlman et al., *Motivations for Physician-Assisted Suicide: Patient and Family Voices*, 20 J. General Internal Med. 234 (2005) [interviews of patients and family members revealed that patients deliberated about physician-assisted suicide over considerable lengths of time with repeated assessments of the benefits and burdens of their current experience; patients were motivated by illness-related experiences, loss of sense of self, and fears about the future; none were acutely depressed].

INTERNATIONAL DEVELOPMENTS

Australia

Peaceful pill. Dr. Philip Nitschke and the euthanasia advocacy group Exit have two separate projects under way to create a suicide device known as the "peaceful pill." The pill under the first project could be cooked up at home using legally obtainable ingredients, so that no law would be violated. The second project, known as the Peanut project, involves input from former scientists, laboratory technicians, and academics who hope to manufacture their own professional-strength Nembutal-like barbiturate during 2005.

Liberal Party. Prime Minister John Howard has indicated that the Liberal Party will not have a formal policy on euthanasia as long as he is its leader. Although Howard cast a conscience vote against euthanasia when the federal parliament overturned Northern Territory laws in 1997, he said that a free vote should be allowed on such a sensitive issue.

Nancy's Friends. Exit Australia has established the Nancy's Friends network in honor of the late Nancy Crick. Nancy's Friends is an Australian and New Zealand network of volunteers who will provide free home counseling and advice to people who are making end-of-life decisions.

Belgium. The Federal Control and Evaluation Commission for Euthanasia was established in September 2002 when euthanasia was decriminalized in Belgium. In April 2005, the commission reported that registered cases of euthanasia were averaging 30 per month, as compared to 20 cases per month during the first 15 months of the Commission's existence. Eighty percent of cases are recorded in Dutch-speaking Flanders, where a group of some 200 general practitioners and hospital physicians called LEIFartsen exists to advise colleagues on end-of-life care for patients.

Canada. Choices in Dying has presented a petition to British Columbia Justice Minister Irwin Cotler supporting legalization of physician-assisted suicide. Cotler has confirmed that he is serious about revisiting this question.

Chile. Following media coverage of the Terri Schiavo case, attention has been focused in the Chilean parliament on end-of-life issues. Parliamentary Deputy Guido Girardi, a physician, has called for passage of a bill on "death with dignity" that would allow use of living wills. Senator Nelson Avila has urged lawmakers to begin to debate a bill that he introduced in January, which would permit withdrawing or withholding of life-sustaining treatment for patients with no hope of recovery.

Czech Republic. On 4/21/05, Jiri Paroubek, who was expected to become the new Social Democrat prime minister, said that he supported the idea of euthanasia. Euthanasia is considered to be murder under current law, with lengthy prison sentences. Under a proposed bill, the maximum penalty would be six years in prison.

France. On 11/30/04, France's National Assembly voted to adopt legislation changing the code of medical ethics and the public health code to permit withdrawing and withholding life-sustaining treatment. On 4/13/05, the Senate approved the bill after an overnight session. The Senate debate centered on an effort to amend the law to allow physicians to administer lethal injections in hopeless cases. When that effort was defeated by the center-right parliamentary majority, Socialist and Communist senators walked out.

Great Britain

Proposed assisted suicide legislation. In September 2004, a select committee of the House of Lords began considering testimony on the issues raised by the Assisted Dying for the Terminally Ill Bill introduced by Lord Joffe. The committee heard from more than 140 witnesses in four countries, considered over 60 formal written submissions, received over 14,000 letters, and ultimately issued its written report on 4/4/05. Insufficient time remained at that point for the bill to be considered before the May election, but the committee recommended that its report be debated early in the next parliamentary session and that a committee of the whole House examine any bill that might be introduced. Key issues identified by the select committee included the need for any future bill to distinguish between assisted suicide and voluntary euthanasia and the need for qualifying conditions that reflect the realities of clinical practice. The committee's chair, Lord Mackay, reported that opinion within the committee had been divided.

Public opinion poll. A public opinion poll of 2,147 British adults conducted during 3/24-3/29/05 by YouGov and released by the Voluntary Euthanasia Society showed that 45% of respondents were more likely to vote for a political candidate in the general election who supported Lord Joffe's bill.

Isle of Man. On 5/13/03, the House of Keys, which is the parliament for the Isle of Man, voted 15 to 4 in favor of a bill to legalize voluntary euthanasia. An amendment was then passed to make the legislation subject to a select five-member committee taking evidence on the subject and reporting back to the House before the bill's introduction. The report had been expected by April or May 2005 but has been delayed to allow the committee to discuss the implications of the House of Lords investigation.

Leslie Burke. Leslie Burke, who suffers from a degenerative brain condition known as cerebellar ataxia, challenged the General Medical Council guidelines on withholding and withdrawing life-sustaining treatment that were published in 2002, arguing that domestic and European human rights law is violated by the guidelines' provisions allowing physicians to withhold or withdraw artificial nutrition and hydration under certain conditions without court approval. High Court Justice Mumby upheld Burke's claim that he was entitled to treatment and ordered the GMC to redraft its guidelines, but also recognized the right of patients to refuse treatment. The GMC appealed, and a hearing was held before a three-judge panel of the Court of Appeal in May 2005. The GMC argued that the initial ruling was too broad because it might allow a patient to demand treatment physicians did not believe was in the

patient's interest. The Department of Health, which oversees the government-funded National Health Service, joined the GMC in its appeal, citing concerns about resource allocation.

Mental Capacity Bill. On 6/18/04, Constitutional Affairs Minister Lord Filkin published the Mental Capacity Bill, which would come into force in 2007 and for the first time set forth laws governing medical decisionmaking for persons who lack mental capacity. Among other things, the bill would allow execution of a living will and appointment of an agent to make medical decisions. After stormy debates caused in part by concerns that the bill would lead to euthanasia, the bill was passed by the House of Commons on 12/14/04 after representatives of the government agreed to strengthen protections for mentally incapacitated persons. On 4/5/05, the bill was passed by the House of Lords.

Baby Charlotte. On 10/7/04, High Court Justice Hedley ruled that physicians for baby Charlotte Wyatt, who was born three months premature with severe brain damage and injuries to her lungs and kidneys, could discontinue further treatment despite the objections of Charlotte's parents. Justice Hedley found that it was in Charlotte's best interests to allow her to die "a good death." On 4/19/05, Justice Hedley refused to overturn his earlier order but said that he would review it again, probably in October. The Wyatts indicated that they would appeal.

Scotland. Liberal Democrat Jeremy Purvis, who has drafted a member's bill patterned after the Oregon Death with Dignity Act for introduction in the Scottish parliament, has received 600 responses to his consultation paper, Dying with Dignity. He will now begin to seek the support of 18 members of parliament, which is required to move the bill forward.

Dignitas. An estimated 30 British citizens have traveled to Switzerland to seek assistance from the Swiss organization Dignitas in ending their lives. In March 2005, a secret organization known as The Last Choice was set up by Dr. Michael Irwin to provide funds and assistance to Britons wishing to do so. Irwin resigned as chair of the Voluntary Euthanasia Society in 2003 after admitting that he had planned to help end the life of Patrick Kneen in the Isle of Man, although Irwin was not charged with any crime.

Royal College of Nursing. In April 2005, the Royal College of Nursing refused to adopt a neutral stance on euthanasia, as other royal medical colleges have done. The issue was debated for the first time at the organization's annual meeting, but leaders refused to let the 5,000 delegates vote on it.

Ireland

Physicians seek guidelines. Irish physicians want guidelines to help them deal with seriously ill patients who ask for withdrawal of life-sustaining treatment, do-not-resuscitate orders, and other assistance with end-of-life care. The Irish Medical Council has issued guidelines making the deliberate termination of life or acceleration of death unlawful and unethical, but

the guidelines are silent on other issues. Recently it was learned that a 37-year-old Irish quadriplegic had traveled to Switzerland to end his life by assisted suicide.

Public opinion poll. In April 2005, irishhealth.com reported the results of a poll of its more than 76,000 registered users regarding whether euthanasia should be permitted in Ireland. Fifty-three percent of respondents said it should be permitted, 35% said it should not, and 12% were unsure.

Israel. On 5/9/05, the Tel Aviv District Court ruled that a 59-year-old terminally ill patient should be allowed to be disconnected from a respirator. Yael Hirschorn, who had suffered from muscular dystrophy for eight years, could communicate only through the use of her eyelids. Her daughter filed a petition asking that her mother not be reconnected to the respirator once it was disconnected for regular cleaning. Judge Uri Goren based his decision on the opinions of two physicians, whom he required to be present and supervise disconnection of the respirator. A similar petition was submitted to the Tel Aviv District Court on 5/9/05 on behalf of Tina Levy, who is on a feeding tube after sustaining severe brain damage following a heart attack.

Japan. In December 2002, Dr. Setsuko Suda was arrested and charged with killing a 58-year-old man on 4/19/02 at Kawasaki Kyodo Hospital by removing a tracheal tube and injecting a muscle relaxant after the patient suffered a cardiac arrest and lapsed into a coma following an asthma attack. Dr. Suda was indicted for murder, but entered a not guilty plea. During her first hearing on 3/27/03, her lawyer told the Yokohama District Court that the muscle relaxant could not have caused the patient's death and that Suda's intent was to help the patient die from natural causes. On 2/1/05, prosecutors demanded that Suda be sentenced to five years in prison, telling the Yokohama District Court that Suda should have waited to see whether the patient's condition improved. However, on 3/25/05, the court sentenced Suda to only three years in prison, suspended for five years. The judge found that Suda had deviated from proper medical treatment but took into account the complexity of treating comatose patients and the fact that she had already had to leave her job at the hospital. Suda said that the ruling was unjust and she would appeal to a higher court.

Korea. Hallym University law professor Lee In-young, who polled 1,020 Koreans in 16 cities and provinces about their attitudes toward end-of-life treatment, presented the results of his research at a forum on 4/1/05. The poll showed that 69.3% of respondents favored allowing a competent patient or a patient's family to request that life-sustaining treatment be withheld or withdrawn, while 27.5% were opposed. In the case of active euthanasia, 56.2% were in favor and 39.1% were opposed. In June 2004, the Supreme Court sentenced a 41-year-old physician identified as Yang and a third-year resident identified as Kim at Boramae Hospital to 18 months in jail with a two-year stay of execution for causing a comatose patient's death by withdrawing his respirator and discharging him from the hospital at his wife's request.

The Netherlands

Possible extension of euthanasia. On 12/16/04, a commission established by the Royal Dutch Medical Association and chaired by Professor Jos Dijkhuis concluded after a three-

year inquiry that existing Dutch euthanasia law allows a physician to help end the life of a patient who is not terminally ill but is "suffering unbearably." This conclusion could extend euthanasia to infants and to persons who have dementia or otherwise are mentally unable to make medical decisions. Although a government spokesman initially indicated that the Dutch government would be "extremely reticent" about allowing euthanasia under these circumstances, in March 2005 Health Secretary Clemence Ross agreed to send an opinion on the question to the Dutch parliament. The new proposal calls for a panel of medical experts, plus a judge or court official, to review decisions made in such cases by a physician with the family's permission.

Reported cases of euthanasia. The annual report issued by regional euthanasia review boards in April 2005 showed that 1,886 cases of euthanasia were reported during 2004, 70 more cases than in 2003. For the first time, one of the cases involved a patient with dementia, but this case was not referred to the prosecutor because the review board concluded that all the legal criteria had been applied properly. Four physicians were judged to have breached the euthanasia regulations, and their cases were referred to the public prosecutor and the health inspectorate.

Spain

Mar Adentro. Alejandro Amenabar's film Mar Adentro (The Sea Within), based on the real-life story of euthanasia activist Ramon Sampedro, has won an Oscar and a Golden Globe for best foreign-language film.

Dr. Luis Montes. Dr. Luis Montes was dismissed from his position as head of the emergency room at Leganes hospital near Madrid after the regional government received an anonymous complaint that high doses of drugs were being administered to terminal patients. On 3/14/05, the Professional Medical Organization criticized the decision as having been made "without proof." Twenty fellow chief physicians from Leganes also signed a letter demanding Montes' immediate reinstatement. The regional authorities had previously investigated a similar accusation at the hospital two years before.

Vatican. On 5/7/05, Pope Benedict XVI announced that he will continue Pope John Paul II's strong opposition against abortion and euthanasia.

Council of Europe. On 4/27/05, the Parliamentary Assembly of the Council of Europe engaged in a lengthy debate on a draft resolution from Swiss liberal deputy Dick Marty calling on European countries to study and eventually decriminalize euthanasia. Parliamentarians ultimately voted on 71 proposed amendments. As amended, the resolution was unacceptable to both supporters and opponents, and it was rejected by a vote of 138-26, with five abstentions. The resolution has now come before the Parliamentary Assembly three times.

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