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). Twenty-nine amicus briefs were filed in the case. Following the death of Chief Justice Rehnquist, John Roberts was appointed as Chief Justice prior to the start of the Court's term in October 2005. On 10/5/05, the Court heard oral argument in *Gonzales v. Oregon*. Although Justice Sandra Day O'Connor participated, she has submitted her resignation from the Court and may retire before the Court issues its decision. If that occurs and Justice O'Connor is the swing vote in a 5 to 4 decision, the case is likely to be reargued to Justice O'Connor's replacement and the remaining Justices. The person

appointed to replace Justice O'Connor is expected to be less receptive than Justice O'Connor to arguments in favor of the Oregon Death with Dignity Act. The Court's decision will be issued by June 2006.

LEGISLATION

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).

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.

Bill carried over to 2006. Ultimately, backers of the California Compassionate Choices Act decided in July 2005 to abandon their efforts for the time being and to carry the proposed legislation over to the second year of the legislative session, which begins in January 2006. During the intervening period, supporters of the Act plan to concentrate on educating legislators about its provisions.

California Democratic Party. In July 2005, the executive board of the California Democratic Party adopted a resolution in support of physician-assisted suicide. The resolution, which was supported by the party's Disability Caucus, included a statement about the need to ensure the protection and rights of people with disabilities.

Oregon

Deaths in 2005. According to Compassion in Dying of Oregon, which counsels about 80% of the patients who use the Oregon Death with Dignity Act, the number of deaths in 2005 is likely to be less than in 2004. As of the beginning of October 2005, 85 people who contacted the organization during 2005 later died. However, only 19 took their lives using lethal medication. Another eight had the lethal medication in their possession but did not take it.

Organization renamed. The Oregon group Compassion in Dying of Oregon has been

renamed as Compassion & Choices of Oregon, in order to prevent confusion between the Oregon group and the national parent organization, Compassion & Choices.

Legislation to reverse Oregon's law unlikely. Tim Nashif, the political director of the Oregon Family Council and the leader of the successful 2004 campaign to ban gay marriage in Oregon, said in a recent interview that the Oregon voters have spoken clearly on the issue of physician-assisted suicide and it has been relegated to the political back burner.

Documentary. Tom D'Antoni and Greg Bond have produced a documentary called "Robert's Story," which follows the last two years of the life of Robert Schwartz, a man with AIDS who used the Oregon Death with Dignity Act to die. Robert obtained a lethal dose of medication in 2001 and died two years later at the age of 52. For further information about the documentary, listen to an interview of the producers on Oregon Public Broadcasting's "Oregon Territory" show at www.opb.org/programs/oregonterritory. Click on "Archives" and go to the 10/7/05 show on death and assisted suicide.

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.

Further consideration of proposed legislation. The House Human Services Committee is expected to take up physician-assisted suicide legislation again when the legislature reconvenes in January 2006. In the interim, a five-member subcommittee consisting of only Democrats and Progressives who support physician-assisted suicide is meeting to alter the previous bill. Some opponents argue that consideration should be deferred until the U.S. Supreme Court decides the pending case of *Gonzales v. Oregon*.

Federal legislation. If the U.S. Supreme Court rules in favor of Oregon in *Gonzales v. Oregon*, Congressional opponents of Oregon's law probably will introduce federal legislation prohibiting physician-assisted suicide. The sizable Republican majority in the Senate makes passage of such legislation much more likely than was the case with prior proposed legislation.

OTHER NATIONAL DEVELOPMENTS

Michigan

Dr. Kevorkian. Dr. Jack Kevorkian is now 77 years old and is not scheduled to be paroled from a Michigan prison until May 2007. His attorney, Mayer Morgenroth, plans to file a motion in November 2005 asking Governor Jennifer Granholm to commute his sentence or move up the date when he becomes eligible for parole, but she is not likely to do so. If released from prison, Kevorkian would like to campaign for legalization of assisted suicide. Kevorkian has written a 65-page paperback book on the Ninth Amendment with the assistance of supporter Ruth Holmes, called *Amendment IX: Our Cornucopia of Rights*.

Geoffrey Fieger. Geoffrey Fieger, who gained nationwide notoriety when he defended Dr. Kevorkian in three criminal trials, announced in October 2006 that he plans to run for Attorney General in Michigan in 2006 on the Democratic ticket.

Gallup poll. The Gallup Organization conducted its annual survey on American values and beliefs by interviewing 1,005 adults by telephone from 5/2 to 5/5/05. The results revealed that wording questions differently had a significant effect on attitudes towards euthanasia and physician-assisted suicide. When asked whether a doctor should be allowed by law to end the life of a patient with an incurable disease if the patient and his family request it, 75% said yes (as compared to 37% in 1947). When the words "assist the patient to commit suicide" were used, however, support dropped to 58%. The people most likely to be affected by the difference in question wording were evangelical Christians, young males, and rural residents. In light of the poll results, Compassion & Choices held a media teleconference in September 2005 to urge that other terms, such as "aid in dying" or "assisted dying," be used instead of "assisted suicide."

Bob Stern. Bob Stern, a 77-year-old man with prostrate cancer and an abdominal aneurysm, took his own life on his California ranch but first made a videotape explaining his decision—with his wife and son present—for his out-of-town daughters. Stern's daughter Susan Stern, a San Francisco filmmaker, made a one-hour film about his suicide called "The Self-Made Man," blending his videotape with old home movies and postmortem family interviews. The film was aired on 7/26/05 as part of PBS's "P.O.V." series.

Dr. Harold Luke. On 8/4/05, the California state medical board approved an administrative law judge's recommendation to revoke the medical license of Dr. Harold Luke, a Redlands physician, for "gross negligence." Luke was charged with having increased a 76-year-old man's morphine drip tenfold in order to "hasten the patient's death" when he was hospitalized in September 2002. Luke said that, as a Seventh-Day Adventist, he was opposed to physician-assisted suicide and had intended only to make his patient's last days as painless and comfortable as possible. The patient's three children, who gathered around his deathbed, requested terminal compassionate care and said that the board's action was "absurd." Pain management advocates accused the board of having confused humane treatment with euthanasia, and the board agreed to reconsider the matter.

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 were intended to strike an appropriate balance between curbing drug-trafficking and permitting adequate treatment of patients in intractable pain. In the 11/16/04 Federal Register, however, the DEA announced that the 31-page document "contained misstatements" and "was not approved as an official statement of the agency." On 1/18/05, the DEA published in the Federal Register a solicitation of comments on the subject. Most of the comments received sought clarification on the legal requirements governing the prescribing of Schedule II controlled substances by physicians. On 8/26/05, DEA published in the Federal Register a clarification of its policy reiterating the principles under the Controlled Substances Act and DEA regulations.

Video on end of life. Two advanced practice nurses at the University of Michigan, Linda Strodtman and Maureen Goode Giacomazza, have produced a 29-minute video of unscriptedinterviews, called "Evan Mayday's Good Death," about the death of a 63-year-old Brighton man. Mayday, who was a quadriplegic as a result of a diving accident, died after he decided to have his ventilator removed. The video was intended to be a case study modeling best practices of health care providers in dealing with end-of-life care. Strodtman and Giacomazza are also working on a discussion guide to the Mayday video, a second video on care of children with life-threatening conditions, and a research project examining best practices in end-of-life care.

Recent articles

Vanessa M.P. Johnson et al., *Palliative Care Needs of Cancer Patients in U.S. Nursing Homes*, 8 J. Palliative Med. 273 (2005) [based on analysis of data in the Minimum Data Set national repository, researchers concluded that important opportunities exist to improve the quality of cancer care for older adults].

Anthony L. Back et al., *On Saying Goodbye: Acknowledging the End of the Patient-Physician Relationship with Patients Who Are Near Death*, 142 Annals Internal Med. 682 (2005) [authors stress the importance to patients and physicians of saying goodbye, and suggest actions a physician can take]

Astrid M. Vrakking et al., *Physicians' Willingness to Grant Requests for Assistance in Dying for Children: A Study of Hypothetical Cases*, 146 J. Pediatrics 611 (2005) [63 Dutch pediatricians were surveyed about their approach to 10 hypothetical cases of children with cancer; up to 60% said they would honor a request for life-shortening or lethal medication from both child and parents, up to 42% would honor a request from parents of an unconscious child, and up to 28% would honor a request from a child even if the child's parents disagreed].

Lawrence O. Gostin, *Ethics, the Constitution, and the Dying Process: The Case of Theresa*

Marie Schiavo, 293 JAMA 2403 (2005) [provides chronology of events and discusses issues raised by the Schiavo case].

Articles in vol. 8, no. 3, of the Journal of Palliative Medicine:

Patricia Ruopp et al., *Questioning Care at the End of Life*, 8 J. Palliative Med. 510 (2005) [researchers interviewed physicians on the internal medicine services of two academic medical centers to explore their emotional responses to patients' deaths, and concluded that physicians' questions about care can contribute to designing residents' training experiences and improving the quality of end-of-life care].

Jennifer Kapo et al., *Are We Referring Patients to Hospice Too Late? Patients' and Families' Opinions*, 8 J. Palliative Med. 521 (2005) [although most patients and family members believed at the time of enrollment visits that they were not enrolling in hospice too late, they were much more likely to believe after the patient's death or discharge that enrollment was too late; families who believed that enrollment was too late had shorter lengths of stay in hospice (a median of 10 days versus 24 days for other families)].

Joseph W. Shega et al., *Factors Associated with Self- and Caregiver Report of Pain Among Community-Dwelling Persons with Dementia*, 8 J. Palliative Med. 567 (2005) [researchers found that self-report of pain was not associated with any other variable measured, suggesting that pain should be assessed through direct self-report and treated accordingly; they also concluded that clinicians may need to routinely assess patient pain, patient agitation, and caregiver depression].

Alan Meisel, *Ethics and Law: Physician-Assisted Dying*, 8 J. Palliative Med. 609 (2005) [review of developments in the area of physician-assisted dying].

Deborah P. Waldrop et al., *Final Transitions: Family Caregiving at the End of Life*, 8 J. Palliative Med. 623 (2005) [based on in-depth interviews with 74 caregivers of a family member who had been receiving hospice care for at least two weeks, researchers concluded that palliative care professionals have important opportunities to provide information and support to family caregivers during the final stages of the patient's terminal illness].

Inez de Beaufort, *Patients in a Persistent Vegetative State—A Dutch Perspective*, 352 New Eng. J. Med. 2373 (2005) [reviews the Dutch approach to patients in a persistent vegetative state, comparing the cases of Henk-Jan Stinissen and Terri Schiavo].

James A. Tulsky, *Beyond Advance Directives: Importance of Communication Skills at the End of Life*, 294 JAMA 359 (2005) [using a sample case, author suggests ways to improve physician response to patient and family emotions and focus more on goals for care and less on specific treatments].

Articles in vol. 24, Jul./Aug. 2005 issue, of Health Affairs:

Todd Gilmer et al., *The Costs of Nonbeneficial Treatment in the Intensive Care Setting*, 24 Health Affairs 961 (2005) [researchers conclude that ethics consultations resolve conflicts that would have inappropriately prolonged nonbeneficial or unwanted treatments in the ICU instead of focusing on more appropriate comfort care].

Lindsay A. Hampson & Ezekiel J. Emanuel, *The Prognosis for Changes in End-of-Life Care After the Schiavo Case*, 24 Health Affairs 972 (2005) [authors conclude that the Schiavo case is unlikely to change current practices except to increase the number of Americans who complete living wills].

Robert M. Veatch, *Terri Schiavo, Son Hudson, and "Nonbeneficial" Medical Treatments*, 24 Health Affairs 976 (2005) [author argues that clinicians should unilaterally refuse futile treatment but should not block access based on competition for scarce resources or the clinician's belief that the patient's goals are valueless].

Articles in vol. 165, Aug. 8/22, 2005 issue, of Archives of Internal Medicine:

Susan M. Wolf, Editorial, *Assessing Physician Compliance with the Rules for Euthanasia and Assisted Suicide*, 165 Archives Internal Med. 1677 (2005) [criticizing Dutch practices].

Marijke C. Jansen-van der Weide et al., *Granted, Undecided, Withdrawn, and Refused Requests for Euthanasia and Physician-Assisted Suicide*, 165 Archives Internal Med. 1698 (2005) [survey of 3,614 Dutch general practitioners regarding the most recent request for euthanasia and physician-assisted suicide (EAS) they had received; more than half of physicians had not received a request; of those who had received an explicit request, 44% resulted in EAS, 13% of patients died before the performance of EAS, 13% died before the final decision was made, 13% withdrew the request, and the physician refused the request in 12% of cases; researchers concluded that physician decisions seemed to be based on patient evaluations; physicians reported compliance with the official requirements for accepted practice].

David S. Zingmond & Neil S. Wenger, *Regional and Institutional Variation in the Initiation of Early Do-Not-Resuscitate Orders*, 165 Archives Internal Med. 1705 (2005) [researchers found that characteristics of California hospitals appeared to be associated with use of DNR orders, with early DNR orders significantly lower in for-profit (versus private nonprofit) hospitals, higher in the smallest (versus the largest) hospitals, and lower in academic (versus nonacademic) hospitals; rates of DNR order use varied 10-fold across counties].

F. Amos Bailey, *Improving Processes of Hospital Care During the Last Hours of*

Life, 165 Archives Internal Med. 1722 (2005) [study showed that end-of-life care in acute care inpatient setting improved after the introduction of a multicomponent palliative care program based on the best practices of home hospice].

H. Roeline W. Pasman et al., *Discomfort in Nursing Home Patients with Severe Dementia in Whom Artificial Nutrition and Hydration Is Forgone*, 165 Archives Internal Med. 1729 (2005) [researchers who studied 178 patients in Dutch nursing homes concluded that forgoing artificial nutrition and hydration in patients with severe dementia who scarcely or no longer eat or drink seems, in general, not to be associated with high levels of discomfort, although individual differences make it important to monitor constantly for possible discomfort].

Articles in vol. 159, Sep. 2005 issue, of Archives of Pediatric and Adolescent Medicine:

Astrid M. Vrakking et al., *Medical End-of-Life Decisions for Children in the Netherlands*, 159 Archives Pediatric Adolescent Med. 802 (2005) [study found that about 36% of all deaths of Dutch children between the ages of 1 and 17 years from August to December 2001 were preceded by an end-of-life decision: 12% by a decision to refrain from potentially life-prolonging treatment, 21% by the alleviation of pain or symptoms with a possible life-shortening effect, and 2.7% by the use of drugs with the explicit intention of hastening death; in the latter case, the decision was made at the child's request in 0.7% and at the request of the family in 2% of cases].

Harold B. Siden, Editorial, *The Emerging Issue of Euthanasia*, 159 Archives Pediatric Adolescent Med. 887 (2005) [summarizing the Vrakking article and concluding that euthanasia does occur in children and adolescents and needs to be understood better].

Jeffrey P. Burns, Editorial, *Is There Any Consensus About End-of-Life Care in Pediatrics?*, 159 Archives Pediatric Adolescent Med. 889 (2005) [concludes that, despite moral disagreements, a broad consensus exists about many fundamental aspects of end-of-life care for children].

INTERNATIONAL DEVELOPMENTS

Australia

Steve Guest. On 7/11/05, Steve Guest, a 58-year-old Point Lonsdale resident with incurable throat cancer, called in to Jon Faine's radio program on 774 ABC, describing his suffering and indicating his desire to die. Guest died on 7/27/05 by taking Nembutal, with both his brothers present. Euthanasia activists Dr. Philip Nitschke and Dr. Rodney Syme visited Guest during the week before he died and advised him how to end his life. The State Coroner began an investigation into Guest's death, after which the two doctors revealed that they knew who gave the Nembutal to Guest and that Guest had dictated letters to both doctors denying that either gave him the barbiturate.

Book published. Penguin Books has published a book co-authored by Philip Nitschke and Fiona Stewart, titled *Killing Me Softly: Voluntary Euthanasia and the Peaceful Pill*.

Belgium. A Belgian physician whose identity has not been disclosed was arrested on 7/29/05 and charged with murder in connection with the deaths of five elderly patients in a nursing home. He reportedly said that he had administered lethal drugs to end the patients' suffering. Although physician-assisted suicide is legal in Belgium, the patients were incompetent and unable to make a request as required by law.

Bhutan. In August 2004, when the 82nd session of the National Assembly approved the Penal Code of Bhutan, legislators debated the issue of euthanasia extensively. The draft Code would have criminalized euthanasia, but the National Assembly deleted that provision and resolved to debate it again in future sessions. Chukha drangpon Lungten Dubgyur, who wrote a seminal paper on the subject called *Euthanasia Under the Penal Code of Bhutan, 2004*, concluded that the Buddhist belief in the sanctity of life requires the rejection of euthanasia.

Canada

Proposed legislation. In fall 2004, Justice Minister Irwin Cotler said that the Canadian parliament might debate assisted suicide, but that did not occur. However, MP Francine Lalonde has introduced a private member's bill (C-407) that would legalize assisted suicide for a patient who is in extreme pain with no prospect of relief or is suffering from a terminal illness. The person assisting would have to be a medical practitioner or be helped by a medical practitioner. Under the lottery system that determines the order in which bills are heard, the bill was scheduled very early and will be debated on 10/31/05. The bill will receive a second hour of debate in early December, and MPs will vote shortly after on whether to send the bill to the Commons justice committee for review. Private member's bills normally are treated as free votes by the four political parties.

André Bergeron. Marielle Houle, a 44-year-old woman from Montreal with Friedreich's ataxia, died on 7/10/05, three days after her 46-year-old husband, André Bergeron, allegedly

suffocated her with a plastic bag to end her suffering. He was charged initially with attempted murder and released on bail, but the charge may be upgraded to murder after an investigation is complete.

Marielle Houle. Marielle Houle (not related to Bergeron's wife) also is facing charges brought in Montreal of assisting in the 2004 suicide of Charles Fariala, her 36-year-old son who had multiple sclerosis. Houle waived her right to a preliminary hearing and is scheduled to appear in court on 10/31/05.

Fatality at Winnipeg hospital. June Morris, an 83-year-old woman with a broken hip, died on 1/4/02 from a deadly dose of potassium, one day after she was admitted to St. Boniface General Hospital in Winnipeg. After an investigation, Provincial Court Judge Tim Preston issued a report on Morris' death on 9/12/05 that mentioned the possibility of both a deliberate overdose and an accidental one, but focused almost entirely on 74 recommendations aimed at preventing a similar occurrence. One key suggestion was that nurses no longer be required to mix potassium acetate themselves on the ward.

End-of-life care. Gary Fish, whose wife died of cancer 10 weeks after she was diagnosed, is compiling an Internet palliative resource center that he hopes will be operational around the clock by January 2006. In addition, a group of 21 organizations calling themselves the Quality End-of-Life Care Coalition of Canada, have sent a report on palliative care needs to federal Health Minister Ujjal Dosanjh and asked for $20 million a year to implement a long-term strategy to provide the necessary resources.

Colombia

Proposed legislation. On 5/20/97, Colombia's Constitutional Court issued a 6-3 decision decriminalizing active euthanasia of terminally ill patients who consent; the court subsequently reaffirmed its ruling on 6/12/97. In 1999, Colombia's congress attempted unsuccessfully to enact legislation regulating the practice. In November 2004, Senator and former Constitutional Court Judge Carlos Gaviria again presented a bill that would permit and regulate the "dignified and voluntary death" of terminally ill patients. In July 2005, Gaviria said that he would submit a bill in the current legislative session with guidelines similar to those in Belgium and the Netherlands. The role of the Colombian Congress is to draw up rules and regulations to prevent abuses, not to change the core of the court's ruling.

Public opinion. According to a Yanhaas poll for RCN radio issued in March 2005, 45% of Colombians favor inducing death in terminal cases and 46.9% are opposed. Ninety percent of Colombians are Catholic, and the Catholic church strongly opposes euthanasia.

Czech Republic. Euthanasia is considered to be murder under current Czech law, with lengthy prison sentences. Under a proposed new penal code being debated in the lower house in October 2005, however, assistance in a suicide out of compassion would be punishable by up to six years in prison, with no minimum sentence specified. The junior ruling Christian Democratic party has

pointed out that the new penal code contains no procedural safeguards for euthanasia, and has announced that the party will not support changing the law that regulates euthanasia.

France. A poll of 1,000 adults carried out in August 2005 for Figaro magazine showed 81% in favor of allowing euthanasia, 14% opposed, and 5% undecided. The results indicated a 16% increase in support for euthanasia over the past five years.

Germany

Dignitas Deutschland. In September 2005, the Swiss group Dignitas opened its first German office, called Dignitas Deutschland, in Hanover. Dignitas has assisted in 453 suicides since it was founded, including 253 people from Germany. The primary purpose of the new office is to push for a change in German law and to provide advice to local members. Dignitas Deutschland will not provide direct or indirect assistance in the actual act of suicide. Justice Minister Elisabeth Heister-Neumann of Lower Saxony said that she would introduce legislation in Germany's upper house making professional advice on suicide a crime. Roger Kusch, Justice Minister of the city state of Hamburg, touched off an uproar when he wrote a guest commentary for Hamburger Abendblatt newspaper indicating that he personally supported assisted suicide.

Public opinion polls. A study commissioned by Stern magazine after the Dignitas office opened revealed that 74% of Germans thought that doctors caring for terminally ill patients should be allowed to give them a lethal injection, 20% were opposed, and 6% were undecided. However, a counter survey commissioned by the German Hospice Foundation and conducted by the Emnid research group showed that only one-third of Germans know what "palliative care" is, and only 20% are familiar with hospices. According to the latter survey, when interviewees were presented with more information about end-of-life care, 56% said they would prefer to be cared for in a hospice rather than resort to assisted suicide.

Problems with end-of-life care. Currently, only two percent of the 850,000 Germans who die each year receive professional end-of-life care, and only 1,150 hospice beds are available throughout the country. However, in October 2005 Health Minister Ulla Schmidt pledged 250 million euros ($300 million) to improve and expand hospices and palliative care. She also has promised to set up 330 teams of trained palliative care experts across the country. A medical ethics commission recently issued a report on the state of palliative care and hospices in Germany, recommending more training and education programs in palliative care and making palliative medicine a mandatory subject in medical schools.

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 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. In June 2005, Lord Joffe received a letter from Health Service Minister Rosie Winterton, indicating that the government was prepared to give his bill time but "remain neutral" and "listen to the debate." In October 2005, the House of Lords engaged in an eight-hour debate about the select committee's report. Lord Joffe is preparing to introduce the bill for the fourth time. He has agreed to remove voluntary euthanasia from the bill but is unwilling to concede to the committee's recommendation that the definition of unbearable suffering be replaced with "unrelievable" or "intractable" suffering or distress.

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, arguing 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. In July 2005, a three-judge panel of the Court of Appeal agreed and reversed the lower court's decision.

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, received a total of 616 responses to his consultation paper, Dying with Dignity, of which 56% supported allowing physician-assisted suicide. Purvis indicated that he intended to introduce his private member's bill at the end of October or early in November 2005. He will then seek the support of 18 members of parliament, which is required to move the bill forward.

Dr. Michael Irwin. Dr. Michael 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. On 9/27/05, the General Medical Council struck Irwin off the medical register, finding that he had behaved in an unprofessional, inappropriate, and irresponsible way that was likely to bring the medical profession into disrepute. Irwin admitted his actions, which included writing a prescription in his own name in violation of medical guidelines, but said that he believed the existing law on physician-assisted suicide was unjust and that his duty to his close friend to act as a compassionate physician was greater than his duty to the state.

British Medical Association. On 6/30/05, delegates at the annual meeting of the British Medical Association voted 53% to 47% to change BMA's historical policy opposing the legalization of assisted dying. Delegates approved a motion to withdraw BMA's opposition,

leaving the matter to parliament, but to campaign for robust safeguards if any legislation is proposed.

Public opinion poll. YouGov conducted online interviews of 2,432 British adults from 8/19 to 8/24/05 and published the results in the Daily Telegraph. The poll showed that 87% agreed that terminally ill individuals should be able to ask for medical assistance to help them die, 6% disagreed, and 6% were uncertain. As to whether close relatives should be allowed to assist without fear of prosecution, 67% said yes, 21% said no, and 12% were uncertain.

Voluntary Euthanasia Society. On 11/12/05, members of the Voluntary Euthanasia Society will vote on whether to change the organization's name to "Dignity in Dying." According to its director, the current name is outdated and no longer reflects the group's range of activities. A survey of members in 2004 showed that 95% supported a name change.

Italy. Telephone interviews of 1,002 Italian adults conducted by Ispo Ltd. from 9/6 to 9/12/05 showed that 20% of respondents believed that a law allowing euthanasia should be introduced in Italy, 38% would allow it only in cases of severe pain, 37% were opposed, and 5% were uncertain.

The Netherlands

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." In July 2005, the Dutch Pediatric Society voted unanimously to support the Groningen Protocol, which authorizes euthanasia for newborn infants under certain exceptional circumstances. In September 2005, the Dutch Health Ministry confirmed that it would send a letter to parliament embracing the Groningen Protocol and extending euthanasia to infants and persons with dementia or otherwise mentally unable to make medical decisions. The new process would require a panel of medical experts, plus a judge or court official, to review decisions made by a physician with the family's permission.

Terminal sedation. Dr. Peter Vencken spent nine days in custody and was charged with murder for administering terminal sedation (inducing a coma in a dying patient by prescribing a sedative and increasing doses of morphine). In November 2004, a court acquitted Vencken based on expert evidence that his actions constituted proper palliative care. The public prosecutor appealed, but on 7/29/05 the appeal court returned a verdict in two hours instead of the usual 14 days, dismissing the charges. After the Royal Dutch Medical Association expressed its concern about the prosecution, the Dutch Ministers of Health and Justice rejected a call from Attorney General Joan de Wijkerslooth for terminal sedation to be covered by the same legal controls as euthanasia.

De Einder. A foundation named De Einder has been formed to give advice to people

contemplating suicide. The group receives almost a call a day, but nine out of 10 people who seek advice do not end up taking their own lives. Under Dutch law, giving advice on suicide is legal, but the advisor may not prepare the drug or be present when the person takes it.

New Zealand. In July 2005, the New Zealand Medical Association board voted to retain its current position opposing euthanasia and physician-assisted suicide as unethical.

South Africa. In July 2005, Research Surveys conducted a telephone survey of 493 adults in urban areas, identifying the cultural and religious background of each person surveyed. A large majority of all groups favored allowing a patient's family to turn off life-support systems if the individual had been declared brain-dead. On the other hand, half of those questioned responded that people should never be allowed to take their own lives, even if they were terminally ill and in considerable pain. On the issue of physician-assisted suicide, 46% responded that it should be allowed and 51% disagreed. The group supporting physician-assisted suicide included 37% of black respondents, 60% of white respondents, 50% of Indians, and 49% of colored respondents. Age, gender, and religion did not affect the responses on this issue.

Switzerland. In July 2005, the Advisory Committee on Biomedical Ethics issued a report commissioned by the Swiss parliament, which is considering drawing up proposals for a new law on euthanasia and assisted suicide. The report said that groups such as Dignitas or Exit should be able to operate legally under certain conditions, and that there was no reason to exclude foreigners from coming to Switzerland for assisted suicide. The committee did recommend increased monitoring of groups that offer assisted suicide and called on the authorities to ensure that these groups adhere to a set of legal criteria.

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