

## RECENT DEVELOPMENTS IN PHYSICIAN-ASSISTED DEATH

Professor Valerie J. Vollmar  
Willamette University College of Law

Copyright 2009

**\*NOTE:** Professor Vollmar's recent developments reports are posted to her website at [www.willamette.edu/wucl/pas](http://www.willamette.edu/wucl/pas).

### LITIGATION

*Baxter v. Montana*, No. ADV-2007-787 (Mont. Dist. Ct., Dec. 5, 2008)

Case filed. On 10/18/07, a suit over the right to die with dignity was filed in the Lewis and Clark County District Court in Helena, Montana, against the State of Montana and the Attorney General. The plaintiffs originally included two terminally ill patients (53-year-old Steven Stoelb and 75-year-old Robert Baxter), four Missoula physicians who treat terminally-ill patients (Stephen Speckart, C. Paul Loehnen, Lar Autio, and George Risi, Jr.), and the nonprofit patients' rights organization Compassion & Choices. The two patients were represented by Mark S. Connell, a Missoula attorney, and Kathryn Tucker, Director of Legal Affairs for Compassion & Choices. Subsequently, Stoelb's case was dropped due to disputed facts regarding his disease. The complaint claimed that the state statutes criminalizing assisted suicide violated several sections of the Montana state constitution.

Trial court decision. Judge Dorothy McCarter heard arguments in the case on 10/10/08, with Assistant Attorney General Jennifer Anders arguing on behalf of the State of Montana. On 12/5/08, Judge McCarter issued an opinion holding that terminally ill patients have a right to physician-assisted suicide under Article II, Section 4 (right of individual dignity) and Section 10 (right of privacy) of the Montana constitution, but rejecting an equal protection claim under Section 4. (Plaintiffs had previously withdrawn their other constitutional claims.) Judge McCarter also held that the patient's right to die with dignity includes protection of the patient's physician from liability under Montana's homicide statutes.

Appeal. Shortly after the trial court's ruling, the state filed an appeal to the Montana Supreme Court (Attorney General Mike McGrath will have to recuse himself from the case after becoming chief justice in January 2009). On 1/7/09, Judge McCarter denied the state's request to stay the trial court ruling pending appeal, saying that a stay would "deny the fundamental right of Montanans to die with dignity for a lengthy period of time" and that she believed that "there is a good chance that the Montana Supreme Court will affirm." Amicus briefs were filed before 6/2/09 by at least 14 organizations, including Physicians for Compassionate Care Education Foundation, the International Task Force on Euthanasia & Assisted Suicide, the Alliance Defense Fund (a conservative legal group representing the Family Research Council, the American Association of Pro-Life Obstetricians and Gynecologists, the Catholic Medical Association, and several Montana physicians). Compassion & Choices planned to release a number of additional amicus briefs at a news

teleconference on 6/22/09. Twenty-eight state legislators have urged the supreme court to reject the ruling, while at least 24 legislators support the ruling.

Legislation. Democratic Representative Dick Barrett proposed a bill (LC 1818) in the current state legislature that would incorporate Judge McCarter's decision into state law and also set guidelines for patients and physicians who wish to participate in physician-assisted suicide. Ultimately, however, both Barrett and groups opposed to the bill decided not to proceed during the current session because of concern that the legislature could not give adequate attention to the contentious issue.

Patients. In April 2009, Janet Murdock, a 67-year-old woman from Missoula who was dying from ovarian cancer, released a statement through Compassion & Choices saying that she could not find a physician who would help her to die; she eventually died on 6/14/09. An unnamed man from Sheridan also has told Compassion & Choices that he is having trouble finding a physician to assist.

Montana Medical Association. In December 2008, the president of the Montana Medical Association said that the group had no policy on assisted suicide and would not get involved in the case unless its members requested that it do so. However, the MMA subsequently adopted a policy stating that the MMA "does not condone the deliberate act of precipitating the death of a patient." The policy also states that the MMA "acknowledges" that some treatments to eliminate pain and suffering could hasten a patient's death, but "does not accept the proposition that death with dignity may be achieved only through physician-assisted suicide."

Catholic church. In the December issue of *The Montana Catholic*, Bishop George L. Thomas of Helena pledged the church's help in overturning the decision in *Baxter v. Montana*. Bishop Thomas said that the Diocese of Helena would file an amicus brief with the supreme court and work with the legislature to prevent physician-assisted suicide from becoming the law in Montana.

## LEGISLATION

Arizona. Democratic Senator Linda Lopez has tried unsuccessfully for several years to have the legislature pass a bill legalizing physician-assisted death. She has now decided to put that bill on the back burner and has instead introduced SB 1311, which would require physicians, upon a terminally-ill patient's request, to provide information on all legally available end-of-life treatment options. The bill, which is modeled after a law recently passed in California, is waiting for a hearing to be scheduled by Chairman Linda Gray of the Committee on Public Safety and Human Services.

Connecticut. SB 1138, which was patterned after the Oregon Death with Dignity Act, was referred to the Joint Judiciary Committee on 3/13/09. The committee shelved the bill on 3/19/09 by a vote of 37-0. The committee co-chair explained that the bill was controversial and that other issues needed to take priority.

Hawaii. Hawaii has tried and failed repeatedly to approve a bill to legalize physician-assisted death.

In January 2009, two new bills—HB 587 and HB 806—were introduced that generally are similar to those introduced previously, except that the new bills require a suicide “monitor” to be present when the patient takes the lethal medication. The bills were referred to the House Judiciary Committee. However, House Judiciary chairman Jon Riki Karamatsu said on 2/28/09 that the committee will not hear the bills because advocates have not pushed strongly for them to be heard this year. Karamatsu did say that he was open to considering them in the future.

Maryland. On 3/13/09, the Maryland House passed HB 30 by a vote of 133-0, after which the bill was referred to the Senate Finance Committee and a hearing was set for 3/25/09. The bill would require the Attorney General to convene a work group to study and make recommendations on methods to increase and improve end-of-life counseling and hospice care, and to report to the Senate Finance Committee and the House Health and Government Operations Committee by 12/31/09.

Massachusetts. HB 1468, which was patterned after the Oregon Death with Dignity Act, died in the Joint Committee on Judiciary on 1/16/09.

New Hampshire. HB 304, which was patterned after the Oregon Death with Dignity Act, was referred to the House Judiciary Committee on 1/8/09 and died in committee.

New Mexico. HB 814, which was patterned after the Oregon Death with Dignity Act, died in the New Mexico legislature after being introduced on 2/17/09 by Representative Karen Giannini.

New York. SB 4498, which was referred to the Senate Health Committee on 4/24/09, would require a health care practitioner to provide information about palliative care and end-of-life options to patients diagnosed with a terminal illness or condition.

## Oregon

Deaths during 2008. On 3/3/09, the Oregon Department of Human Services issued a report on deaths during 2008 under the Oregon Death with Dignity Act. The complete report is available on-line at [www.oregon.gov/DHS/ph/pas](http://www.oregon.gov/DHS/ph/pas). The report included the following information:

Prescriptions written. In 2008, 88 prescriptions were written for lethal doses of medication, as compared to 24 prescriptions in 1998, 33 in 1999, 39 in 2000, 44 in 2001, 58 in 2002, 68 in 2003, 60 in 2004, 64 in 2005, 65 in 2006, and 85 in 2007.

Number of patients. In 2008, 60 patients died after taking lethal medication, as compared to 16 patients in 1998, 27 in 1999, 27 in 2000, 21 in 2001, 38 in 2002, 42 in 2003, 37 in 2004, 38 in 2005, 46 in 2006, and 49 in 2007. The number has remained small compared to the total number of deaths in Oregon, with about 19.4 deaths under the Act in 2008 per 10,000 total deaths. Of the 88 persons who received prescriptions under the Act during 2008, 54 died after taking lethal medication, 22 died from their underlying illness, and 12 were alive as of the end of 2008. An additional six persons who received prescriptions before 2008 died in 2008 after taking their medications. A total of 401 patients have died under the

terms of the Act since 1997.

Patient characteristics. Most of the 60 patients who died were between 55 and 84 years of age (78%), white (98%), and well-educated (60% had at least a baccalaureate degree, compared to 41% in previous years). Fifty percent of the patients were male and 50% female, 52%% were married, and 48% lived in the Portland metropolitan area. Eighty percent of the patients who died had cancer, 98% were enrolled in a hospice program, and 94% had health insurance. Fifty-eight patients died at home, and two died in some type of care facility.

Patient concerns. The most common reasons for choosing assisted suicide expressed by patients to their physicians were loss of autonomy (95%), inability to participate in activities that make life enjoyable (92%), loss of dignity (92%), loss of control of bodily functions (62%), being a burden on family, friends, or caregivers (33%), and inadequate pain control (5%). Only two patients voiced concerns about the financial implications of treatment.

Mental health evaluations. Two of the patients who died were referred for a psychiatric or psychological consultation.

Medical information. During 2008, all lethal medications prescribed were barbiturates. The physician was present when the medication was ingested in 18% of cases, with other health care providers present in 70%. Median time from taking the medication to unconsciousness was five minutes (individual times ranged from 1 to 20 minutes). Median time from taking the medication to death was 15 minutes (individual times ranged from 2 minutes to 25 hours). No medical complications were reported. Two cases were referred to the Oregon Board of Medical Examiners for incorrectly completed reporting forms, but the Board found no violations of “good faith compliance” and did not sanction any physicians for “unprofessional conduct.”

Physicians. A total of 59 physicians prescribed lethal medications to 88 persons.

Oregon Health Division statistics for 2008 generally were consistent with statistics for 1998-2007, except that patients had more years of education and many more patients had private insurance rather than Medicare or Medicaid.

Compassion & Choices of Oregon. According to the 2008 annual report of Compassion & Choices of Oregon, the organization served more than 230 clients during 2008, 195 of whom died peacefully. Of the 195 who died in 2008, 53 chose to hasten their deaths by taking lethal medication, 129 died from their illness, seven died by terminal sedation, and six died after voluntarily stopping eating and drinking. Twenty-two of the 195 seriously considered committing a violent suicide but decided not to after receiving counseling. In 2008, the organization participated in 88% of all deaths under the Oregon Death with Dignity Act. Of the 195 Compassion clients who died in 2008, 155 self-identified as being religious or spiritual; 63 self-identified as being Republican and 95 as Democrat. In addition to

counseling and assisting individual clients and families, Compassion & Choices of Oregon held more than 40 public presentations before more than 3,000 attendees and thousands of TV viewers and radio listeners, and received more than 4,000 telephone calls, emails, and letters from the public.

Forthcoming book. Sean Strub, an activist, writer, and entrepreneur, is writing a comprehensive book on the Oregon Death with Dignity Act featuring several volunteers and clients of Compassion & Choices of Oregon.

Forthcoming film. Peter Richardson, who graduated from Philomath High School, plans to produce a documentary film on the Oregon Death with Dignity Act. Richardson's first documentary film, *Clear Cut: The Story of Philomath, Oregon*, made its debut at the 2006 Sundance Film Festival in Park City, Utah.

Pennsylvania. SB 404, which was patterned after the Oregon Death with Dignity Act, was introduced by Democratic Senator Daylin Leach. The bill was referred to the Senate Judiciary Committee on 3/5/09, where it died. Leach had sponsored a similar bill while serving in the House the prior year, but that bill never got a hearing.

### Vermont

Death with Dignity. In April 2009, House Bill 455 was referred to the Human Services Committee and Senate Bill 144 to the Health and Welfare Committee. The bills are patterned after the Oregon Death with Dignity Act and cite Oregon's experience under its law.

Palliative care. On 5/18/09, Vermont's Governor signed into law a House bill (H. 435) that is intended to improve the quality of palliative care and pain management and to ensure that patients are aware of their rights and care options. The bill includes a "Patients' Bill of Rights for Palliative Care and Pain Management" that covers all patients, including those who are terminally ill, suffering from pain, suffering from a chronic condition, or are pediatric patients. The Vermont Department of Health must report on deaths to the House Committee on Human Services and the Senate Committee on Health and Welfare beginning 10/1/11 and then every two years. Vermont Ethics Network, Inc. must convene a task force to coordinate palliative care and pain management and report to the same committees annually beginning 1/15/10. The Vermont Board of Medical Practice and Board of Nursing must report to these two committees by 1/15/10 with recommendations regarding continuing education and training for medical professionals, implementing the Patients' Bill of Rights, identifying barriers to effective communication and ways to eliminate them, integrating palliative care and hospice referrals into health care providers' practices, and methods for informing the public of the training health care providers have received.

### Washington

Initiative passed. On November 4, 2008, Washington voters passed Initiative Measure 1000 (the Washington Death with Dignity Act) by a vote of 1,599,797 (57.91%) in favor and

1,162,742 (42.09%) against. The measure carried in 33 of 39 Washington counties. The Act, which is patterned after the Oregon Death with Dignity Act, became effective on 3/5/09. Supporters of the initiative spent about \$4.9 million and opponents raised \$1.6 million (slightly more than half of which came from the Roman Catholic Church). Organizations that supported the measure include ACLU of Washington, Washington State Public Health Association, American Medical Women's Association, American Medical Student Association, and the Older Women's League of Seattle. The measure also was endorsed by 14 newspapers across Washington, including the *Seattle Times*, *Seattle Post-Intelligencer*, and *The Olympian*.

Implementation of the Act. In February 2009, the Washington Department of Health adopted official rules implementing the Act. The text of the ballot measure and statute, the administrative rules, copies of the forms to be used (which are similar to the Oregon forms), statistics on use of the Act, and other information are available on-line at [www.doh.wa.gov/dwda](http://www.doh.wa.gov/dwda). As of 6/18/09, the website showed that the following number of forms had been filed with the Department of Health:

Patient requests: 14  
Attending physician's compliance form: 14  
Consulting physician's compliance form: 14  
Psychiatric/psychological consultant's compliance form: 2  
Pharmacy dispensing record form: 13  
Attending physician's after death reporting form: 5

#### Deaths under the Act

Linda Fleming. On 5/21/09, Sequim resident Linda Fleming, a 66-year old woman with Stage 4 pancreatic cancer, became the first person to die under the Washington Act. Fleming lapsed into unconsciousness within seven minutes of taking the medication and died a couple of hours later. Fleming, whose illness was diagnosed in April 2009, was a divorced former social worker who had worked with homeless and mentally ill people. She filed for bankruptcy in 2007 with \$5,800 in credit card debt and was unable to work because of a disability. Fleming's two children and former husband were involved and supported her choice to die.

Second death. On 6/3/09, Compassion & Choices of Washington announced that a second terminally ill patient had used the Act to die. The patient and family had requested that their identities and other details about the death remain private.

Participation by health care providers. Many patients who would like to take advantage of the Washington Death with Dignity Act are having trouble finding health care providers willing to participate. Reports indicate that about a third of hospitals are opting out completely, about a third will participate, and about a third are somewhere in the middle. Health care facilities that are unwilling to participate—many of which are Catholic—include Providence Health Care System (which operates eight hospitals, as well as nursing homes and assisted living facilities), PeaceHealth in Bellingham, Hospice of Spokane, Central

Washington Hospital in Wenatchee, Swedish Medical Center in Seattle, Virginia Mason Medical Center Hospital in Seattle, Central Washington Hospital, Quincy Valley Medical Center, Lake Chelan Community Hospital in Chelan, Forks Community Hospital, and Mid-Valley Hospital in Omak. The University of Washington Medical Center, Harborview Medical Center, Group Health Cooperative, the Okanogan-Douglas County Hospital in Brewster, Jefferson Healthcare, and North Valley Hospital in Tonasket have opted to participate. The board of the Olympic Medical Center in Port Angeles originally voted to opt out but later decided that physicians could inform and counsel patients about the Act in the hospital, but patients could not kill themselves in the hospital. In addition to having difficulty finding health care facilities to participate, many patients have difficulty finding a willing physician.

Other developments. Some commentators have expressed concern about unanswered questions and about whether health care providers have sufficient training to implement the Act. To prepare hospice workers, the Washington State Hospice and Palliative Care Organization scheduled workshops in March 2009. The group also plans to seek guidance from Oregon. Anne Koepsell, executive director of the organization, said that a crucial first step is to craft guidelines on how to deal with a patient who is considering using the new law. The University of Washington School of Medicine also has created a new website about physician-assisted suicide at <http://depts.washington.edu/bioethx/topics/pas>.

Wyoming. HB 120, which was introduced on 1/21/09, would have created the crime of assisting a suicide and made the crime a felony punishable by not more than 20 years' imprisonment. The House Labor Committee held a hearing on 1/28/09 and narrowly approved a weakened version of the bill, but its sponsors decided to pull the bill when the vote appeared likely to be reversed.

Future state legislation. The Death with Dignity National Center maintains a website at [www.deathwithdignity.org](http://www.deathwithdignity.org). The website indicates that the organization is trying to determine which states are most likely to adopt death with dignity legislation next, based on demographics, cost of paid media/television advertising, and results from polling. The Center has identified a "short list" of possible next states, consisting of Arizona, Colorado, Maine, Massachusetts, Nevada, and Wyoming (although Vermont and Hawaii are possibilities because of prior successes in their state legislatures, neither state has the initiative process). The Center plans to conduct polling in two or three states during summer 2009 to determine where public opinion most strongly favors legislation.

Federal legislation. Oregon Representative Earl Blumenauer has introduced HR 1898, the "Life Sustaining Treatment Preferences Act of 2009," which would provide Medicare coverage for medical consultations regarding orders for life-sustaining treatment and provide grants for the development and expansion of state and local programs. Thirty-two states already have implemented or are developing such orders, following the example of Oregon's Physician Orders for Life-Sustaining Treatment (POLST). The bill was referred to the House Committee on Energy and Commerce and the Committee on Ways and Means.

## **OTHER NATIONAL DEVELOPMENTS**

Dr. Jack Kevorkian

Political campaign. Euthanasia advocate Dr. Jack Kevorkian lost his bid as an independent candidate running against incumbent Republican Representative Joe Knollenberg for the 9th Congressional District seat in Michigan. Democratic candidate Gary Peters won with 52% of the vote, while 43% voted for Knollenberg and 3% for Kevorkian.

Speech. On 2/5/09, Kevorkian delivered a speech at Nova Southeastern University in Davie, Florida, as part of the university's Distinguished Speakers Series. The theme of the series was "Life and Death." During his speech, Kevorkian displayed a U.S. flag with a swastika where the blue and stars should have been. The reaction of the audience was mixed.

Movie. Actor Al Pacino reportedly is in negotiations with director Barry Levinson to star in a forthcoming movie about Kevorkian called *You Don't Know Jack*. The HBO Films movie is based on a script by Adam Mazer, which is itself loosely based on Neal Nicol's *Between the Dying and the Dead: Dr. Jack Kevorkian, the Assisted Suicide Machine, and the Battle to Legalize Euthanasia*.

### Final Exit Network

Georgia criminal case. On 2/25/09, agents from the Georgia Bureau of Investigation and other law enforcement agencies conducted raids at 14 sites in nine different states (Georgia, Maryland, Ohio, Missouri, Montana, Michigan, Arizona, Florida, and Colorado). Subsequently, Claire Blehr, Thomas E. Goodwin, Dr. Lawrence D. Egbert, and Nicholas Alec Sheridan were charged with assisted suicide, tampering with evidence, and a violation of Georgia's anti-racketeering act in connection with the death of 58-year-old John Celmer, of Cumming, Georgia, in June 2008. The maximum penalties are five years in prison for assisting a suicide, three years for tampering with evidence, and 20 years for racketeering. Authorities allege that all four individuals are associated with the Final Exit Network, which is based in the north Atlanta suburb of Marietta, and that they helped Celmer die by means of helium tanks and a hood known as an "exit bag." The arrests resulted after a sting operation in which an undercover agent posed as a member of the group. The defendants are now free on bond. ERGO (Euthanasia Research & Guidance Organization) has started a defense fund called the "Final Exit Liberty Fund." The Final Exit Network has suspended assisted suicides since mid-February, but is still accepting applications.

Arizona criminal case. After the Georgia investigation began, authorities in Arizona began investigating Wye Hale-Rowe and Frank Langsner in connection with the death of 58-year-old Jana Van Voorhis in Phoenix in April 2007. Maricopa County Attorney Andrew Thomas said that Van Voorhis was not terminally ill but suffered from mental illness. On 5/14/09, Hale-Rowe and Langsner were indicted on charges of manslaughter and conspiracy to commit manslaughter. Dr. Lawrence Egbert and Roberta Massey also were indicted for conspiracy to commit manslaughter because they allegedly assisted in processing Van Voorhis' application for assistance.

Ohio investigation. Athens County authorities are investigating whether Final Exit Network played a role in the death of 69-year-old Phyllis Jean Hixson of Mason, Ohio, on 6/15/09. According to the group's lawyer, Robert Reeves, Hixson joined the organization in 2008 and



talked with one of its board members about her desire to die, but no member of the organization was present when she died. The Athens County sheriff is investigating Hixson's death as a possible homicide.

New president. Ted Goodwin resigned from his office as president of Final Exit Network on 2/23/09 (he is now vice-president of the World Federation of Right to Die Societies and will become world president in 2010). Goodwin was replaced by Jerry Dincin.

June Hartley. On 2/20/09, San Joaquin County prosecutors charged 42-year-old June Hartley of Lodi, California, with the felony of assisted suicide in connection with the death of her 45-year-old brother, James Hartley, on 12/7/08. Hartley, who had been a popular blues guitarist, suffered a series of strokes in 2006 that left him paralyzed and in constant pain, and he had repeatedly asked family members, friends, and the police to help him die. June Hartley reported her brother's death to the police, who became suspicious about whether he could have acted alone in causing his death by inhaling helium. On 5/27/09, June Hartley pleaded guilty to accessory after a felony, which can carry a sentence of three years in prison but also can be a misdemeanor with no jail time. She can withdraw her plea if Superior Court Judge Franklin Stephenson sentences her to prison or makes it a felony conviction at a hearing on 8/3/09. A probation officer will submit a report and recommend to the judge whether Hartley should spend time in prison or serve probation. The district attorney's office has agreed not to dispute the judge's decision.

Jeff George Ostfeld. On 5/22/09, U.S. Magistrate Judge Peter Ormsby denied bond to 33-year-old Jeff George Ostfeld of Las Vegas, who allegedly planned to sell in Australia and the United Kingdom smuggled samples of an animal tranquilizer capable of causing death. Ostfeld also is suspected of having used similar drugs to assist in the death in Nuevo Progreso, Mexico, of 29-year-old Jennifer Malone of Roseburg, Oregon, on 5/17/09. Ostfeld faces federal drug smuggling charges in the United States carrying a penalty of up to 20 years in prison and \$1 million in fines, and also is under investigation for violation of Mexican law.

Dr. Rajasekar Sham. Dr. Rajasekar Sham, a 68-year-old radiologist from Flower Hill, New York, was jailed without bail and transferred to the Nassau University Medical Center after police discovered him and his terminally-ill wife bleeding in a bathroom of their home. Sham's 69-year-old wife Lucila, who had cancer, bled to death after he cut her. Sham faces second-degree murder and manslaughter charges.

Memoir published. For the first time, attorney and author John West has revealed that he helped his father, who had been diagnosed with terminal cancer, die on 1/2/99 by obtaining lethal medication. Months later, West assisted in the death of his mother, who had Alzheimer's disease. West appeared on the *Good Morning America* television show on 2/5/09 and revealed that he had written the memoir *The Last Goodnights* to spur debate about assisted suicide laws.

Compassion & Choices website. In January 2009, Compassion & Choices announced a new and improved website, which includes information about recent news and landmark legal and legislative initiatives. The address of the site is [www.compassionandchoices.org](http://www.compassionandchoices.org).

American Bar Association consumer guide. In April 2009, the American Bar Association

Commission on Law and Aging released a new consumer guide titled *Making Medical Decisions for Someone Else: A How-To Guide*. The handbook is free and can be downloaded from the Commission's website at [www.abanet.org/aging/](http://www.abanet.org/aging/).

ABC television. On 6/5/09, ABC televised a story on Exit International and the release of the Exit Barbiturate Test Kit. TIME magazine had earlier reported on the kit's development.

International Symposium on Euthanasia and Assisted Suicide. On 5/29-5/30/09, the second International Symposium on Euthanasia and Assisted Suicide was held in Washington, DC. The forum was presented by opponents of euthanasia and assisted suicide, who had sponsored the first such symposium in Toronto, Canada, in 2008.

"Take the Pledge" campaign. Opponents of physician-assisted death have set up a "Take the Pledge" website at [take-the-pledge.com](http://take-the-pledge.com), on which health care providers and citizens can affirm that they will help terminally-ill patients, not urge their deaths.

Catholic scholars. On 2/13/09, a consortium of seven directors of bioethics programs at Jesuit universities published an article in *Commonweal* questioning the right of people in a persistent vegetative state to food and water. On 6/12/09, a group of 14 Catholic scholars responded with a statement in the journal of the National Catholic Bioethics Center, *Ethics and Medics*, affirming Pope John Paul II's teaching that nutrition and hydration must be given to all patients, even those in a persistent vegetative state.

## **MEDICAL DEVELOPMENTS**

American College of Legal Medicine. In 2008, the American College of Legal Medicine adopted a policy supporting aid in dying, joining the American Medical Women's Association, the American Medical Student Association, and the American Public Health Association.

Compassion & Choices. On 2/13/09, Compassion & Choices revealed its Seven Principles for Patient-Centered End-of-Life Care, which are intended to guide health care reform, improve end-of-life care, and expand choice.

"AND" designation. A new designation, "allow natural death (AND)" is replacing DNR within some health care facilities. Proponents of the new designation say it creates a more positive approach for patients and medical staff, because it is about what is allowed to occur as opposed to what is not to be done. Some studies have shown that families are less reluctant when "allow natural death" is used.

"Conscience protection" rule. On 12/18/08, President George W. Bush announced a new "conscience protection" rule for the health care industry, giving everyone the right to refuse to participate in medical care they find morally objectionable. The office of Health and Human Services said that the rule extended to assisted suicide. The rule was to take effect on 1/19/09. In February 2009, however, the Obama administration began the process to review and potentially rescind the Bush policy.

## INTERNATIONAL DEVELOPMENTS

### Australia

Federal parliament. In March 2008, the Senate Standing Committee on Legal and Constitutional Affairs began an inquiry into the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008, which was introduced in February by Australian Greens Senator Bob Brown as a private member's bill. The bill would repeal the 1997 Euthanasia Laws Act, which prohibited legalizing euthanasia in any Australian territory and served to overturn euthanasia laws in the Northern Territory nine months after they were enacted. (The federal parliament does not have the legal authority to prohibit Australian states from enacting euthanasia legislation.) In June 2008, the Senate Committee recommended by a split vote that the bill be allowed to proceed. However, the committee recommended that the bill be amended so that instead of reinstating the Northern Territory's former laws, the Territory would be allowed to pass new legislation. Debate is still pending in the Senate.

South Australia. Greens MP Mark Parnell has introduced a bill in the Upper House of the South Australian parliament that would authorize physician-assisted death by adding new provisions to the existing Consent to Medical Treatment and Palliative Care Act. One change from prior bills is a five-person board of medical and palliative care experts that would need to give final approval before a physician could act. The board would have the power to investigate, seek further psychiatric or other medical testing, and hear from concerned family members. The Voluntary Euthanasia Bill 2008 introduced by Independent MP Bob Such also is under debate before the Lower House.

Tasmania. On 5/26/09, Tasmanian Greens leader Nick McKim introduced a bill in the Lower House of the Tasmanian parliament that would enact the Dying with Dignity Act 2009. The bill would permit both physician-assisted death and active euthanasia for a terminally ill person experiencing pain, suffering, or distress that the person finds intolerable. Patients wishing to use the Act would have to consult a psychiatrist. According to McKim, a recent E-M-R-S poll he commissioned showed that 78% of Tasmanians supported the change. Debate on the proposed bill was expected to begin in August 2009, but on 6/18/09 Deputy Premier Lara Giddings succeeded in having the bill sent to a joint parliamentary committee for study, with the committee directed to report back to the parliament by 10/2/09. All political parties will allow a conscience vote for their members if parliament eventually votes on the bill.

Western Australia. Greens MP Robin Chapple of the Upper House of the Western Australian parliament plans to introduce a bill legalizing voluntary euthanasia. Of the Upper House's 36 members, 14 have indicated that they support such a bill in principle, eight have expressed opposition, five were undecided, and four could not be contacted. The chamber's five ministers refused to comment. Premier Colin Barrett previously indicated that he was opposed to euthanasia.

Graeme Wylie. A jury convicted Shirley Justins of manslaughter and her friend Caren Jenning (who died before sentencing) of being an accessory to manslaughter in connection

with the death of Justin's long-time partner Graeme Wylie in Cammeray in March 2006 by a lethal overdose of the drug Nembutal. Wylie suffered from severe dementia and Alzheimer's disease, and Swiss authorities had rejected his request to go to Switzerland for an assisted death because tests showed him to be incapable. In November 2008, Justice Roderick Howe sentenced Justins to 22 months in weekend detention. Justice George Palmer ruled on 5/18/09 that Wylie's 1996 will leaving the bulk of his \$2.4 million estate to Justins was invalid, but approved a settlement between Justins and Wylie's daughters distributing his estate in a manner that was closer to Wylie's 1995 will (which reportedly left one-half to Justins and one-quarter to each of Wylie's two daughters).

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 admittedly visited Guest during the week before he died and advised him how to end his life. The State Coroner dropped an investigation into Guest's death after Nitschke and Syme revealed that they knew who gave the Nembutal to Guest but that Guest had dictated letters to both doctors denying that either gave him the barbiturate. In late 2008, however, Victorian police reopened their investigation and questioned Syme during a 12/12/08 interview. Syme has admitted that he gave medication to Guest but says he has never identified the medication. At the annual Steve Guest rally in April 2009, Syme said that there was a "benign conspiracy between the police, coroners, prosecutors and the government to ignore the law and to avoid pursuing doctors who help their patients die with dignity despite the law indicating that this is a serious crime."

Euthanasia kits. Dr. Philip Nitschke has developed testing kits that will cost \$50 and will allow people to check the strength of barbiturates purchased to commit suicide, without breaking the seal on the container. Early in 2009, Nitschke announced that the kits were scheduled for release in the UK in May and would be available internationally soon after that. The first public demonstration was held on 5/3/09 in London, and a number of other meetings and workshops were scheduled in the UK during 5/1-5/10/09. Participants were required to be over age 50 and provide written medical evidence of serious illness. Nitschke launched the kit in Australia on 6/18/09 at a public meeting in Hobart, Tasmania.

Peaceful Pill eHandbook. While in the UK, Dr. Nitschke launched the digital version of his hard copy book, *The Peaceful Pill eHandbook*, which will combine video, audio, images, and the printed word and provide real time updates at a cost of \$75.

Suicide "tourists." Since 2001, Exit International has helped hundreds of people—mostly Australians, New Zealanders, and a few Americans—to find Nembutal, which can be used to cause a person's death, in veterinary pharmacies in Mexico at a cost of about \$350 per bottle. In July 2008, West Australian coroner Alastair Hope indicated that he would investigate the Mexican suicide by Nembutal of Erin Berg, a mother of four young children. Berg's sister, Sally Doyle, said that her sister had traveled to Mexico after reading one of Dr. Nitschke's books, and urged that the book be withdrawn from sale in Australia. Although Nembutal usually is obtained by traveling to Mexico, other people have ordered it from

Mexico on the internet for delivery by mail. Exit International now warns that Mexico is no longer safe and says that the best new locations to buy Nembutal include Peru, Bolivia, Bangkok, and Beijing.

Angie Belecciu. Angie Belecciu, a 57-year-old retired palliative care nurse who was dying of bone cancer, died on 3/23/09 from taking Nembutal. The mother of two adult children, she had devised a plan to die secretly in a motel room on the Mornington Peninsula to avoid any suspicion that her family or friends had assisted her. However, Dr. Nitschke said later that an unnamed member of the group “Nancy’s Friends” was with Belecciu when she died.

Internet censorship. Australia is the first Western nation to attempt censoring the internet. In March 2009, the anonymous whistleblower site Wikileaks published a leaked copy of the secret Australian Communications and Media Authority list of prohibited websites, which included such legal material as gay and straight porn sites, YouTube links, online poker sites, Wikipedia entries, and euthanasia sites. Subsequently, Australia’s third largest internet provider, iiNet, announced that it had withdrawn from the government’s internet censorship trials, saying it could not “reconcile participation in the trial with our corporate social responsibility.” And on SBS’ *Insight* television program on 6/14/09 Communications Minister Stephen Conroy seemed to back down from the censorship policy, saying it would apply only to content that has been refused classification (“RC”), not to R18+ or X18+ sites.

Television documentary. On 12/10/08, Australia’s ABC television network announced that it had purchased the rights to the controversial show *The Suicide Tourist*, which was scheduled to air in Britain. ABC planned to air the show during 2009. The documentary follows the last days of Chris Ewert, who died in Switzerland with the assistance of Dignitas.

Australian Medical Association. The group “Doctors for AMA Neutrality on Voluntary Euthanasia” is urging the Australian Medical Association to change its position against voluntary euthanasia to a neutral stance. The group has a national membership of over 100 physicians.

Christian group. Ian Wood of Port Pirie, South Australia, has helped form a campaign for legal voluntary euthanasia with stringent safeguards, called Christians Supporting Choice for Voluntary Euthanasia. The group now has supporters from South Australia, elsewhere in Australia, and overseas.

Advance directive tattoo. On 4/5/09, Vince Phelan, a 78-year-old man from Belmont, New South Wales, who has been told he is a candidate for a stroke or heart attack, had the words “do not resuscitate” tattooed on his chest. New South Wales is one of the few states that does not have specific advance directive legislation. Phelan is an Exit International coordinator and has been involved in the pro-euthanasia movement for 30 years.

Belgium. Amelie Van Esbeen, age 93, sought to end her life by euthanasia but her request initially was denied because her physician felt she was not suffering from a “serious terminal illness” with “constant and unbearable pain that cannot be relieved.” She then went on a 10-day hunger strike that ended on 3/24/09, when she made a written euthanasia request that was accepted by another

physician who helped her die on 4/1/09.

## Canada

Proposed bill. In 2005, Bloc Quebecois MP Francine Lalonde introduced an unsuccessful bill (Bill C-407) that would have legalized assisted suicide and euthanasia. In 2008, Lalonde introduced another bill (Bill C-562) that also was unsuccessful even though it had added a requirement that the person providing assistance be a physician. On 5/13/09, Lalonde introduced a third bill (Bill C-384, the “Right to Die with Dignity” Act) in the House of Commons that would permit assisted suicide for patients age 18 or older who are experiencing “severe physical or mental pain” and have “tried or expressly refused” treatment. The bill is likely to come to debate and a vote because Lalonde drew number 42 in the private members’ business lottery.

Robert Latimer. In 2001, Robert Latimer began serving a life sentence, without possibility of parole for 10 years, for the mercy killing of his disabled 12-year-old daughter. In March 2008, the appeal division of the National Parole Board released Latimer on day parole to a halfway house. The board has since granted unescorted passes and one extended leave to Latimer, who is now living in a halfway house and working in Victoria. Latimer will be eligible for full parole in December 2010.

Russel Ogden. For several years, sociology instructor Russel D. Ogden of Kwantlen University College in Surrey, B.C., has studied euthanasia and assisted suicide, including the New Technology for Self Deliverance (NuTech) method of dying. In May 2005, the university’s Research Ethics Board considered Ogden’s application for a research ethics review in connection with his proposal to witness assisted suicides. The board approved a protocol under which Ogden agreed that he would not participate in the planning or execution of a suicide, would not encourage a suicide, and would not request that anyone avoid participation in a suicide. Ogden’s research continued under the protocol until July 2008, when Kwantlen withdrew its approval. The Canadian Association of University Teachers claimed that the university had violated academic freedom. The matter was resolved in late 2008 by mutual agreement, apparently by allowing Ogden to continue his research. Ogden began a research leave on 1/1/09 and will return to the university on 1/1/11. His recent projects include an academic documentary titled *Zelfdoding: The Rise of Helium in Self-Chosen Death* (a preview of which was placed on YouTube) and a scholarly article detailing two NuTech deaths that Ogden witnessed in 2007 in Vancouver.

Stéphan Dufour. In July 2007, 30-year-old Stéphan Dufour entered a not guilty plea to a charge of assisting a suicide in connection with the September 2006 death of his 49-year-old uncle, Chantal Maltais, who suffered from advanced muscular dystrophy and had attempted suicide several times. Maltais was close to several family members, especially his nephew, and begged Dufour for help to commit suicide. Allegedly, Dufour provided his uncle with a dog-collar chain that Maltais used to hang himself. On 12/12/08, a jury found Dufour not guilty, but the prosecutor has appealed to the Quebec Court of Appeal.

Andre Dion. On 3/5/09, Andre Dion, a 67-year-old Quebec City man with prostate cancer

and bone cancer, sent a letter addressed to Quebec Health Minister Yves Bolduc to French-language newspapers across Quebec. In the letter, Dion asked the Quebec government to pressure Ottawa to change the federal law on assisted suicide so Dion could end his life with dignity. Bolduc refused to comment on the letter.

China. In October 2008, a Beijing court gave a three-year jail sentence, suspended for five years, to 47-year-old Li Hong, who had given her daughter 200 sleeping pills and then smothered her. Li's daughter was severely disabled with cerebral palsy, and Li was afraid she would become unable to care for her daughter. The court found that Li's actions were an act of mercy.

Colombia. In 1997, Colombia's Constitutional Court issued a 6-3 decision decriminalizing active euthanasia of terminally ill patients who consent. Colombia's Congress has the role of drawing up rules and regulations to prevent abuses, but cannot change the core of the court's ruling. Prior attempts to pass legislation failed in 1999, 2005, and 2007, but Senator Armando Benedetti introduced another bill that would establish standards for euthanasia. The process could only be initiated by the patient and would be limited to Colombians or foreigners who have lived in Colombia for more than a year. The practice of euthanasia would be regulated by the Minister of Protection. On 9/17/08, the issue was debated for the fifth time before a Senate committee, which approved a preliminary draft of the legislation by a vote of 11 to 3. However, three more votes remained, and a judicial strike that could delay legislation was under way. In 2009, Dr. Juan Mendoza, president of the World Federation of Right-to-Die Societies and ADMD-Colombia, testified before the Senate in favor of euthanasia legislation at Benedetti's request.

Croatia. A poll of 1,000 Croatians conducted by the GFK research center in Zagreb early in 2009 found that 54% of respondents supported providing "mercy killing" to terminally ill patients, with those between ages 18 and 35 being particularly supportive but those over age 64 largely opposed. Hrvoje Minigo, a physician who is president of the Croatian assembly, said that euthanasia is banned in Croatia and he believed the Catholic church's position was clear.

### Czech Republic

Proposed legislation. Independent Senator Václava Domšová unsuccessfully proposed a bill giving patients who are in hopeless situations and enduring physical and mental pain the right to have a "dignified death" by active euthanasia. The bill only provided a framework for euthanasia procedures, leaving much to future Health Ministry directives and patients' decisions. Although the draft bill failed and Domšová is no longer in the Senate, the nonparliamentary political party Liberálové.cz presented a second draft bill early in 2009 that is limited to physician-assisted suicide. The new bill would only apply to a terminally ill patient who has exhausted all available methods to improve the patient's condition, and the patient's signature would have to be verified by a notary.

Public opinion poll. According to a poll conducted in May 2009 by the Centre for Public Opinion Research (CVVM), 62% of respondents believed that euthanasia should be legal, as compared to 58% in 2007. Twenty-seven percent disagreed, as compared to 28% in 2007, and 10% were undecided. Roman Catholics disagreed with euthanasia more often than followers of other churches and atheists.

## France

Report to parliament. On 12/2/08, a four-member group of MPs headed by physician Jean Leonetti presented a report to Prime Minister François Fillon concluding that euthanasia should not be legalized in France. The report noted that current legislation allows enough leeway “to absolve or provide leniency on a case-by-case basis” but recommended more observation of end-of-life practices and training of more doctors specializing in hospice care.

Chantal Sébire. In 2008, 52-year-old Chantal Sébire died by taking a fatal dose of barbiturates. Days earlier she lost a legal battle for the right to die by euthanasia. An investigation to find out who supplied the drug was opened in June 2008, but was closed in March 2009 for lack of evidence implicating anyone.

Lydie Debaine. In April 2008, 62-year-old Lydie Debaine was acquitted of charges that she killed her severely mentally and physically disabled daughter Anne-Marie in 2005 by giving her large amounts of anxiety pills and drowning her in a bath. Anne-Marie had been cared for in specialist centers between the ages of six and 22 but had to move home in 2001 due to lack of a place where she could live. In December 2008, the court of appeal in Val d’Oise held that the acquittal was not appropriate because Lydie did not deny the facts, and sentenced her to two years’ imprisonment.

## Germany

Dr. Roger Kusch. Between June and November of 2008, former Hamburg justice minister Dr. Roger Kusch—a well-known euthanasia campaigner—helped five individuals commit suicide by drinking lethal drugs. He advertised on the internet and charged for his services. In response, members of the Upper House of the German parliament proposed legislation to make “commercial and organized assisted suicide” punishable by up to three years in jail. After this effort failed, German police issued a temporary restraining order prohibiting Kusch from assisting in any more suicides, and in February 2009 he said that he would desist and advise people to go to Switzerland.

Doctors acquitted of criminal charges. On 12/22/08, Drs. Paul Schoenle and Frantisek Kovacic were acquitted of charges of manslaughter and of accessory to manslaughter and grievous bodily harm in connection with the death of a terminally ill, paralyzed British man in May 2004 in a rehabilitation center in Magdeburg. Prosecutors had charged that Timothy Sanders died after the two doctors allowed the patient’s brother to turn off a breathing apparatus and they then administered strong painkillers.

German lawyer convicted. Wolfgang Putz, a Munich attorney specializing in medical law, has been sentenced to nine months on probation and a fine of € 20,000 for attempted homicide in connection with the death of a 75-year-old comatose woman whose children said she was being kept alive against her will by a feeding tube. After the children were appointed as the woman’s legal guardians, the nursing home agreed to discontinue life-sustaining treatment and let her die. Only days after removal of the feeding tube, however, the nursing home told the children that their mother would have to leave the facility or



accept the feeding tube. Putz advised the children to cut the feeding tube and then notify the public attorney's office, which they did. The public attorney ordered the nursing home to replace the tube, but the woman died a week later. The district attorney then accused Putz of "active euthanasia." Putz plans to appeal to the German Supreme Court.

Survey of physicians. In late 2008, the German news magazine *Der Spiegel* conducted an anonymous survey of 483 German general practitioners, oncologists, internists, anesthesiologists, and palliative medicine practitioners who deal with extremely ill patients in hospitals. The survey showed that 40% of respondents could imagine helping a patient end his or her life, and 16% could envision themselves taking the lead role in helping a patient commit suicide. In addition, 3.3% admitted to having helped patients commit suicide on one or more occasions. A full 35% would support rules allowing doctors to help terminally ill patients end their lives.

Living will legislation. On 6/18/09, after years of contentious debate, the German parliament voted 317-238 in favor of legislation requiring living wills to be respected under all circumstances. If the living will does not apply to the situation, doctors must consult with the patient's family or caretaker. A special court will resolve disagreements.

## Great Britain

Proposed legislation. In March 2009, over 100 MPs called for a debate in the House of Commons about the choices that terminally ill adults are forced to make when they travel to Switzerland for assisted suicide. Because assisted suicide is illegal in the UK, family members who accompany a patient face investigation and possible prosecution on their return, although the Director of Public Prosecutions in fact has not actually prosecuted such cases. To address the problem, former Health Secretary Patricia Hewitt proposed to amend the Coroners and Justice Bill to change the Suicide Act 1961 to provide that an offense has not occurred if assistance is given "solely or principally" for helping someone to go to an assisted dying clinic. Time ran out to discuss the issue in the House of Commons, but former Lord Chancellor Lord Falconer and former Labor minister Baroness Jay proposed similar legislation in the House of Lords. Their bill would require that two general practitioners certify that patients are terminally ill and that patients declare their intentions before an independent witness. Lord Joffe subsequently proposed another amendment to the Coroners and Justice Bill that would lower any charge from murder to manslaughter "for a person moved by compassion in response to repeated requests by a terminally ill, mentally competent adult who is suffering unbearably, to assist (him) to end his life." Both amendments are expected to be debated during June.

Debbie Purdy. Debbie Purdy, a 44-year-old woman with progressive multiple sclerosis who wanted to die by assisted suicide in a Swiss Dignitas clinic, sought a statement from the Director of Public Prosecutions (DPP) specifying what actions taken by her husband would be considered to be aiding and abetting a suicide. Purdy accused the DPP of breaching her right to respect for her personal and family life under Article 8 of the European Convention on Human Rights. Both the High Court and the Court of Appeal decided against her (the latter court's decision is at [www.bailii.org/ew/cases/EWCA/Civ/2009/92.html](http://www.bailii.org/ew/cases/EWCA/Civ/2009/92.html)). Purdy then

appealed the court judgments to the House of Lords, which scheduled a hearing on 6/1-6/2/09. Purdy's only option if she loses in the House of Lords is to appeal to the European Court of Human Rights.

Dr. Philip Nitschke. Dr. Philip Nitschke held several workshops and gave a number of lectures in October 2008, which produced considerable controversy. While in Britain, Nitschke launched the online *Peaceful Pill eHandbook*. In May and June 2009, Nitschke held more workshops and introduced a kit that will allow people to check the strength of barbiturates purchased to commit suicide.

Dr. Ian Kerr. In July 2008, 61-year-old Glasgow physician Ian Kerr appeared before a General Medical Council (GMC) panel in connection with the 2005 death of "Patient A," an 87-year-old woman. Kerr was alleged to have prescribed temazepam that the patient used to end her own life two days later. He also was accused of keeping inadequate records regarding prescriptions of sodium amytal sleeping pills for five other patients. At the conclusion of a two-week hearing, the GMC found that Kerr's fitness to practice was impaired by virtue of his misconduct, and suspended him from practicing medicine for six months. On 1/31/09, the GMC decided that Kerr's fitness to practice was still impaired but allowed him to return to work subject to 12 conditions to remain in effect for 18 months, including practicing under supervision and not prescribing certain medications.

Dr. Michael Irwin. Dr. Michael Irwin resigned as chair of the Voluntary Euthanasia Society 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. On 1/25/06, Irwin told BBC Radio 4's *Today* program that Surrey police had interviewed him about his links to the Swiss organization Dignitas. Irwin also admitted that he had accompanied a Glasgow woman to Switzerland in August 2005 and was present when she committed suicide. Late in 2008, Surrey Police finally told Irwin that they were dropping the investigation over May Murphy's death because they did not possess any evidence to take the case further.

Daniel James. Twenty-three-year-old Daniel James, a former rugby player who was paralyzed in March 2007, died on 9/12/08 at a Dignitas clinic in Switzerland. The Director of Public Prosecutions considered prosecuting Daniel's parents, Mark and Julie James, for accompanying their son to Switzerland, but decided against prosecution in December 2008 because it was "not needed in the public interest" even though there was "sufficient evidence for a realistic prospect of conviction."

Kay Gilderdale. In December 2008, 54-year-old Kay Gilderdale of Stonegate was arrested on suspicion of murder in connection with the death of her 31-year-old daughter from a suspected morphine overdose. Lynn Gilderdale was diagnosed with myalgic encephalitis in May 1992 and spent the majority of her life bedridden, unable to walk, talk, swallow food, or even hold her head up, and requiring 24-hour care from her mother. On 4/16/09, Kay was charged with attempted murder and released on bail pending her appearance before Brighton Magistrates' Court the next week.

End-of-life care. Lord Darzi, the Health Minister, conducted a year-long review of the National Health Service (NHS) showing that most terminally ill patients died in the hospital, rather than at home as they preferred. He promised that steps would be taken to change the arrangements for patients facing death. The NHS was to publish its first End of Life Care Strategy by the end of 2008, and a new NHS care program was to provide support for hospitals trying to help patients who want to die at home. In November 2008, however, the Public Accounts Committee reported to the British Parliament that the situation had not changed, due to a lack of training for staff and inadequate support for hospices. Spending on palliative care also varied widely for no good reason.

Suicide website law. In September 2008, the Government proposed a change in existing law to make clear that a person's website offering to help people kill themselves is unlawful, even if no specific suicide results from the person's actions.

BBC drama. On 1/25/09, BBC1 screened the film *A Short Stay in Switzerland*, telling the story of Dr. Anne Turner's death in Switzerland in 2006 with the assistance of Dignitas. Turner suffered from progressive supranuclear palsy, a rare degenerative brain disease. Julie Walters, the actress who played Turner, has called for a national debate on assisted suicide. An inquest into the death of 44-year-old Angela Harrison of Huntingdon concluded that she had committed suicide after watching the film. Harrison had multiple sclerosis and suffered from depression.

Documentary. On 12/9/08, Sky Real Lives television channel screened the 90-minute documentary *Right to Die?*, about the assisted suicide of 59-year-old Craig Ewert of Harrogate at a Dignitas clinic in Switzerland. Ewert suffered from motor neurone disease. The film was the first showing of an actual assisted suicide on British TV and was watched by 222,000 people, the channel's highest audience ever.

Friends at the End. Retired general practitioners who are members of the group Friends at the End (Fate), which lobbies for the introduction of assisted death in Britain and gives practical advice on suicide, have sent out copies of a book called *A Hastened Death by Self-Denial of Food and Drink* to at least 30 British patients. The doctors also mailed copies of a leaflet with tips on starvation and dehydration, written by Dr. Libby Wilson, Fate's medical advisor, and Nan Maitland, assistant editor of the group's newsletter.

Dignitas. A media report published on 5/30/09 indicated that almost 800 Britons have become members of Dignitas, a tenfold increase since 2002, and that 34 of them were ready to travel to Switzerland to die by assisted suicide. Dignitas figures also showed that 15 Britons took their lives there in 2003, 26 in 2006, eight in the first five months of 2008, and 23 in the past 12 months. The *Guardian* newspaper has obtained a copy of a list drawn up by Dignitas showing the medical history of all but one of the 115 Britons who have died with Dignitas' help since 2002. Although 80 of the 114 had cancer, motor neurone disease, or multiple sclerosis, the remainder had nonfatal conditions such as rheumatoid arthritis, kidney disease, and Crohn's disease. Similarly, research published in 2008 in the *Journal of Medical Ethics* showed that 21.2% of patients of all nationalities who died at Dignitas had a nonfatal illness.

## British physicians

General Medical Council guidelines. In March 2009, the General Medical Council (GMC) published draft guidance advising doctors on how they should approach decisions surrounding end of life. The new advice would update *Withholding or Withdrawing Life-Prolonging Treatment*, which was published in 2002. The draft guidance, which covers clinical decisionmaking in serious and life-threatening conditions and disabilities, advises doctors for the first time that the wishes of patients or their loved ones should be given much greater weight where there is a chance to prolong or save life, and that acting against a patient's wishes "should be deemed to be causing harm." On 6/3/09, the GMC held a conference to discuss the draft guidance document, which is available on-line.

Association of Anaesthetists of Great Britain and Ireland. The Association of Anaesthetists of Great Britain and Ireland also issued guidelines in March 2009, which focused on providing enough information for patients to make an informed decision about the degree of support they will receive during surgery.

British Medical Association. Dr. Kailash Chand, a GP regional representative with the British Medical Association, is putting two proposals before the group at its meeting in Liverpool on 6/25/09: (1) that physician-assisted death for terminally ill patients should be legalized, and (2) that people who help friends or relatives go to euthanasia clinics abroad should not be prosecuted.

Surveys. A survey of 460 general practitioners across the UK reported by *Healthcare Republic* in February 2009 showed that 38% of respondents believed that the ban on euthanasia should be lifted, and 39% believed that they should be able to assist a terminally ill patient in making plans to end their life; 38% said that they would be prepared to help a patient die if the law was changed to legalize physician-assisted death. The publication *Scotland on Sunday* reported that 35% of British doctors favored assisted suicide, 60% opposed it, and the remainder were unsure.

## British nurses

Consultation launched. On 2/17/09, the Royal College of Nursing (RCN) launched a consultation for members on the debate surrounding assisted suicide. To support the debate, the RCN produced a briefing document describing the current legal and parliamentary positions within the UK and listing current arguments for and against assisted suicide, as well as potential issues relating to nursing practice. Members had until 5/22/09 to express their opinions. The RCN expects to issue guidance for its members this summer.

Survey. A survey of 108 nurses in the UK reported by *Healthcare Republic* in April 2009 showed that 64% of respondents believed that assisted suicide should be legalized and 67% believed that clinicians should be able to assist terminally ill patients who wish to end their lives if they are in chronic pain. However, only 46%

of respondents said they would be willing to help terminally ill patients end their lives if the law allowed it.

Scotland. In late 2008, Margo MacDonald, independent Member of the Scottish Parliament for the Lothians, launched a consultation document seeking views from the public and MSPs about legalization of physician-assisted death. She needed written support from 18 MSPs to introduce her private member's End of Life (Scotland) Bill, which would incorporate the patient's right to choose this option into the principles of palliative care. To gain support, MacDonald narrowed the circumstances in which physician-assisted suicide would be available to (1) terminal illness; (2) progressive, degenerative conditions; and (3) people who suffer a trauma such as accidents or injuries that leave them dependent on others for care. On 4/24/09, MacDonald revealed that a total of 21 members from across all five parties had given their backing. Parliamentary officials will help her draft the formal legislation before it is handed to a Holyrood committee to scrutinize and invite evidence. The Scottish Parliament will probably debate the issue before the end of 2009. In a poll of 841 Scottish adults conducted in March 2009 for STV by Scottish Opinion, 61% of respondents believed doctors should be legally allowed to prescribe drugs to assist suicide. On 12/8/08, George Anderson of Dunfermline lodged a petition with the Petitions Committee at Holyrood on behalf of a group of pensioners, calling for a referendum on assisted death.

Italy. Eluana Englaro has been in a persistent vegetative state since 1992, when at age 19 she suffered severe brain damage in an automobile accident. Her father, Beppino Englaro, repeatedly tried and failed to get court approval to remove her feeding tube until 7/9/08, when Judge Filippo Lamanna of the Milan appeals court finally ruled in his favor. On 11/13/08, the Court Cassation (Italy's highest criminal court) upheld Judge Lamanna's ruling, finding that the case did not concern the public interest, but rather individual rights. On 2/3/09, Eluana was transferred to a private clinic in the northeastern city of Udine that was willing to comply with the court's order. The situation provoked a political crisis, with Prime Minister Silvio Berlusconi saying he would fast-track emergency legislation to keep Eluana alive and President Giorgio Napolitano saying he would not sign any such legislation because it would be unconstitutional. Eluana died on 2/9/09, three days after doctors began reducing her nutrition intake.

Japan. As of September 2008, the Japan Society for Dying With Dignity had 121,946 members, likely making it the largest right to die society in the world.

Kenya. A group of local and foreign investors headed by John Hurst, a British investor and managing director of Dignity International, plan to introduce the Doctor Assisted Suicide (DAS) bill in Kenya. Under the proposed law, a terminally ill patient would be required to pay a fee and would be flown to Switzerland for the process to take place. The dead patient would then be flown back to Kenya for burial.

Korea. The children of a comatose 75-year-old woman named Kim Ok-kyung petitioned the Seoul Western District Court asking for permission to remove her respirator and feeding tube and allow her to die. Kim had been comatose since February 2008 when she sustained brain damage from bleeding. On 11/28/08, the court ordered removal of the respirator and feeding tube based on evidence showing that the patient would have wanted withdrawal. The Supreme Court of Korea

affirmed the lower court's ruling in May 2009, and the hospital was expected to withdraw life supports in June. A survey of 455 doctors at Samsung Seoul Hospital released on 12/7/08 showed that 80% of respondents supported the court's decision. Another survey conducted by the National Cancer Center in September 2008 showed that 88.5% supported the introduction of a law giving the terminally ill the right to die with dignity.

Luxembourg. On 2/19/08, the parliament of the Grand Duchy of Luxembourg approved the Err/Huss bill No. 4909 decriminalizing assisted suicide and euthanasia by a vote of 30 to 26 on the bill's first reading. Under the bill, a patient would have to have a "grave and incurable" condition, and a national commission made up mainly of physicians and officials would have to check on a case-by-case basis that all legal conditions and procedures had been satisfied. The bill was scheduled for its second reading late in 2008, but the Catholic sovereign, Grand Duke Henri, said that he would not approve the law if passed by parliament. Parliament then overwhelmingly approved a bill that would change the constitution to reduce the powers of the head of state to a purely ceremonial role. On 12/18/08, parliament approved the euthanasia bill by a vote of 31-26, with three abstentions. The vote was the first reading of the bill because the original bill had been substantially amended at the request of the Upper House state council. After a final vote on the bill, it went into effect in March 2009.

Mexico. In November 2008, the Mexican Senate approved a law that would allow patients who have a life expectancy of six months or less to refuse treatments that would keep them alive. Doctors could not stop giving patients food, water, psychological care, or painkillers. The new legislation had already been passed by the Lower House.

### The Netherlands

Euthanasia deaths. An annual report issued in May 2009 showed that 2,300 euthanasia cases had been reported to the five regional euthanasia committees during the prior year. The number of reported cases went up 10% in 2008, as compared to cases reported in 2007. The committees speculated that reporting had increased because the 2002 euthanasia law made a clearer distinction between several kinds of treatment, and clearly described the medication that is allowed.

Infant euthanasia. No cases of infant euthanasia were reported in the Netherlands during the first year after laws on euthanasia were expanded to cover newborns with extreme birth defects whose parents request euthanasia. The panel of medical and ethical experts that reported to parliament in November 2008 said that one explanation for the absence of reported infant euthanasia cases might be that fetuses with extreme defects are detected via ultrasound examinations and aborted before the 24th week of pregnancy. The commission said that its members plan to visit all neonatal intensive care units in the country within the next year to encourage more reporting of euthanasia.

Continuous palliative sedation. In 2005, the Royal Dutch Medical Association published a national guideline for palliative sedation for patients expected to die within 1-2 weeks. The 3/9/09 issue of the *Archives of Internal Medicine* reported on a survey of 160 physicians who had used palliative sedation at least once in the past 12 months during the periods prior to

the publication of the guideline (2003-05) and afterwards (2007). The survey showed that patient involvement in decisions regarding palliative sedation rose from 72.3% to 82.2%, while requests for euthanasia declined from 14.5% to 6.3%. The primary indicators for continuous sedation were pain, dyspnea, and anxiety. "Exhaustion" as a reason nearly doubled from 31.4% to 56.0%, leading the investigators to caution that this symptom is likely to have a "psychoexistential dimension" that may require multidisciplinary assessment. Although use of benzodiazepines had increased from 69.9% to 90.4% in line with the guideline, the authors were concerned that physicians remained reluctant to use opioid medications for pain or dyspnea during sedation.

## New Zealand

Ian Crutchley. Ian Crutchley, a 49-year-old man, was convicted of attempted murder in May 2008 in connection with the death of his 77-year-old mother, who had stomach cancer and died on 2/5/07 in Taumarunui's Avonlea Hospital and Home. Authorities alleged that he interfered with an automated syringe and pump, which administered liquid morphine and a combination of sedatives and medication to prevent nausea and anxiety. The jury asked for leniency in sentencing, and Justice Patrick Keane sentenced Crutchley to six months' community detention and 150 hours' community work. Crutchley has now become a member of Dignity New Zealand and joined the campaign to legalize voluntary euthanasia.

Sean Davison. Sean Davison, an Auckland-born scientist who had been living in South Africa but returned to New Zealand to help his 84-year-old cancer-ravaged mother die, has published a memoir titled *Before We Say Goodbye*. Davison's mother, Patricia Davison, a former general practitioner and psychiatrist who practiced under the name Fergusson, tried to end her life by going on a 35-day hunger strike, but she survived. She finally died in her Dunedin home in October 2006, with her son by her side. Her death was not the subject of a coroner's inquiry, and Davison refuses to say exactly how she died. Davison plans to use the publication of his book to push for physician-assisted death.

Poland. The mother of 40-year-old Krzysztof Jackiewicz, who has been in a persistent vegetative state for 24 years, has appealed for the right for him to die by assisted suicide. Poland is overwhelmingly Catholic, so she likely will be unsuccessful.

Portugal. In February 2009, leading members of Portugal's governing Socialist Party, including its president António Almeida Santos, called for an open public debate on legalizing euthanasia, saying the subject could merit a national referendum. A 2008 survey revealed that over half of Portuguese favored euthanasia and 47.5% thought the issue should be put to a referendum.

Qatar. According to a report published in the Arabic daily *Arrayah*, renowned Islamic scholar Dr. Sheikh Yusuf al-Qaradawi has said it is not permissible under Sharia to help a patient end his or her life, even if the patient is terminally ill and has no hope of recovery. A doctor who administers a lethal injection would be considered to have committed a deadly crime, and would be subject to retribution under Sharia. Qaradawi expressed his views in the form of a fatwah.

Romania. Eugen, a 29-year-old Romanian suffering from cirrhosis, called on President Traian

Basescu in November 2008 to allow him to be put to death because he could no longer bear the pain caused by complications from his illness. Basescu responded to the letter by saying that he could understand the suffering but that euthanasia was banned by the criminal code of the country. Eugen died of heart failure in a Constanta hospital one week later.

Russia. Fr. Georgy Ryabykh, Acting Secretary of the Moscow Patriarchate Department for External Church Relations of the Russian Orthodox Church, spoke to *Interfax-Religion* on 2/10/09 about euthanasia. Ryabykh said that the Russian Orthodox Church stands against euthanasia, which pushes a person to commit suicide, and that euthanasia should not be made part of the legal sphere.

Saudi Arabia. The end-of-life debate was renewed recently in Saudi Arabia after a patient in Asir awoke from an eight-year coma. Dr. Osama Lutfi, a heart specialist, said to the local newspaper that the decision to turn off life support should come only after brain death is diagnosed and the family agrees. Mohammad Al-Nujaimi, the head of civil studies at King Fahad University of Petroleum and Minerals and a member of Fiqh Academy, said that Islamic scholars agree that turning off life support of terminally ill patients and ending their lives prematurely is forbidden in Islam.

Singapore. In October 2008, Health Minister Khaw Boon Wan raised the question of euthanasia and assisted dying as an ethical dilemma that Singapore would have to confront. He said that the Chinese daily *Lianhe Zaobao* had published several letters from readers recently on this subject. Catholic Archbishop Nicholas Chia responded by publicly condemning the practice of euthanasia or mercy killing, whether voluntary or involuntary. The debate over end-of-life issues spilled over into parliament on 11/17/08, where much of the debate centered on confusion over the various terms that are used in connection with end-of-life choices. In April 2009, police in Singapore refused permission for a meeting on voluntary euthanasia law reform planned by Exit International, saying that licenses will not be granted for events that may promote the commission of criminal offenses, such as euthanasia.

Spain. The regional government of Andalusia has approved Spain's first legislation guaranteeing citizens a dignified death. The law does not deal with euthanasia or assisted suicide, but "establishes the right of patients to refuse therapeutic treatments that would artificially prolong their lives." Patients also have the right to receive truthful and comprehensive information about their health, and health professionals are required to respect patient decisions. The legislation discusses the right to receive treatment for pain, including palliative sedation when necessary, and guarantees comprehensive palliative care.

Sweden. A pediatrician in her 50s was placed in custody for one week after a three-hour court session on 3/6/09. She is suspected of euthanasia in connection with the death on 9/20/08 of a very premature infant with irreversible brain damage, at the prestigious Astrid Lindgren Children's Hospital in Solna. The coroner's report indicated that the baby received excessive doses of morphine, used to relieve pain, and thiopental, administered as an anesthetic. The physician removed the baby from a life support system after consulting with the family. Euthanasia is illegal in Sweden, but legal proceedings against doctors are very rare. Instead, cases of malpractice usually go before the National Board of Health and Welfare.



## Switzerland

Swiss laws on assisted suicide. On 7/2/08, the Swiss cabinet instructed the justice ministry and the federal police to prepare a report on assisted suicide by early 2009, in order to help determine whether existing rules should be updated. The cabinet was particularly concerned about the care, counseling, and documentation that groups such as Dignitas provide to people seeking to end their lives. World Radio Switzerland reported in June 2009 that the cabinet remains divided after a preliminary discussion and has decided to open up a consultation process. Two options being examined are introducing stricter legislation on assisted suicide and banning assisted suicide organizations altogether. In April 2009, Dignitas founder Ludwig Minelli told the *London Guardian* that the organization is seeking a change in Swiss law to allow helping healthy people to commit assisted suicide.

Dignitas' challenges. Prosecutors are requiring that Dignitas, which is a nonprofit organization, open its books to reveal how much money it is receiving from its business of assisting suicide. More than 17,000 people have signed petitions calling for the group's centers in Zurich to be closed, and local politicians in Zurich are backing the call. Dignitas still does not have a permanent assisted suicide center, and the municipality of Wetzikon, in the canton of Zurich, has joined other towns in turning Dignitas away. Soraya Wernli, who worked at Dignitas for 2½ years, claims that the group is just a "money-making machine"; she has sued Minelli, acted as an undercover informant for the police, and is writing a book titled *The Business with the Deadly Cocktails* that she says will be an in-depth exposé.

Court decision. In April 2009, Switzerland's highest court ruled that natrium-pentobarbital falls under the laws regulating narcotics. Although permission could be granted to national and international organizations to use the substance in emergencies to preserve life, permission could not be extended to Dignitas, which is a private organization and wants to use the narcotic to take life rather than save it.

Andrei Haber. A Swiss judge has ordered medical authorities to investigate the role of Dignitas in the death of Andrei Haber of Fribourg, Switzerland. Judge Philippe Barboni said that Dignitas may have violated the law because Haber's motives appeared to be essentially psychological, rather than due to a serious or incurable disease causing severe pain.

Study of assisted suicide patients. On 11/4/08, researchers from the University of Zurich and the Zurich University of Applied Sciences released a study showing that increasing numbers of people seeking assisted suicides in Switzerland are not terminally ill. The study analyzed 421 assisted suicides in Zurich between 2001 and 2004, 274 with the help of Dignitas and 147 with Exit, and compared them to information about 149 suicides assisted by Exit from 1990 to 2000. The data showed that between 1990 and 2000, 78% were terminally ill. Between 2001 and 2004, 79% of those assisted by Dignitas were terminally ill but only 67% of those assisted by Exit. Between 2001 and 2004, 91% of those who died with help from Dignitas were foreigners, mostly from Germany, France, and Britain. Only three percent of those helped by Exit came from abroad.

EX International. A second group in Switzerland—EX International in Bern—has announced that it will assist in the self-deliverance of nonresidents of Switzerland.

Public opinion poll. A poll published in the French-language magazine *Hebdo* on 4/11/09 showed that three-quarters of people in Switzerland are “fairly or greatly” in favor of assisted suicide, and that 56% would consider using it if they were suffering from a serious incurable disease. However, opinions were almost equally divided as to whether foreigners should be allowed to travel to Switzerland in order to die.

## Europe

European Association for Palliative Care. At a meeting of the European Association for Palliative Care (EAPC) in Vienna in May 2009, experts said that good medical care to ease the suffering of terminally ill patients makes assisted suicide unnecessary. Physicians also called for improved palliative care services across Europe, where the quality of services varies widely.

European Protestants. European Protestants met in Vienna in October 2008 for a consultation to begin the process of drawing up a common position on euthanasia. The Specialist Group on Ethics of the Community of Protestant Churches in Europe and other Protestant experts on the subject of euthanasia began by looking at existing position papers from member churches to help draw up the common statement. The group planned to present the document to the CPCE Council at its meeting in Oslo in January 2009.

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