



### Montana & Washington providers say no to PAS

Despite a December 5, 2008, ruling by a Montana District Court judge that immediately legalized physician-assisted suicide (PAS) statewide, at least two terminally-ill patients have not been able to find doctors willing to provide them with a prescription for lethal drugs. That was why the assisted-suicide promotion group Compassion & Choices (C&C) held a news conference in Helena to recruit PAS doctors. The message was simple: “Montana physicians are free to practice aid in dying without fear of prosecution.” [C&C Press Release, 4/3/09]

But, there is more to physicians’ PAS refusals than just “fear of prosecution.” Shortly after the District Court ruling—which is currently under appeal—the Montana Medical Association (MMA) adopted a policy opposing “the deliberate act of precipitating the death of a patient,” and rejecting the premise that “death with dignity may be achieved only through physician-assisted suicide.” “[PAS] is really against our ethics,” explained MMA president Dr. Kirk Stoner. [Bozeman Daily Chronicle, 4/4/09]

Meanwhile in Washington—where the state’s Oregon-style PAS law took effect on March 5, 2009—many doctors are also refusing to assist patients’ suicides for ethical and other reasons. In the Tacoma area, not even C&C was able to find a doctor willing to prescribe lethal drugs. According to PAS advocate and C&C board member Dr. Tom Preston, “There are a lot of doctors, who in principle, would approve or don’t mind [PAS], but for a lot of social or professional reasons, they don’t want to be involved.” [AP, 3/2/09; News Tribune, 4/9/09]

So far, an estimated 30 percent of Washington’s hospitals and health care facilities have opted out of PAS participation, banning the practice on their premises. [Daily Evergreen, 3/4/09; Yakima Herald-Republic, 3/3/09; Everett Herald, 3/1/09]

### Undercover sting operation exposes the assisted-suicide group Final Exit Network

On February 25, 2009, the organization Final Exit Network (FEN) made headlines across the country. But, it was not good news for the group. Four of its key members had been arrested as a result of an undercover sting operation conducted by the Georgia Bureau of Investigation (GBI). Mainstream media called the organization a “suicide ring” and law enforcement’s investigation in nine states a “raid” and a “bust”—much to the dismay of FEN faithful, who view themselves as compassionate, volunteer “exit guides” out to help their fellow members with “intolerable medical conditions” commit suicide. [FEN Press Release, 2/26/09]

According to the GBI, former FEN president Ted Goodwin, 63, and Georgia resident Claire Blehr, 76, both exit guides, assisted the June 2008 suicide of John Celmer, 58, a throat and oral cancer patient who had undergone two recent reconstructive surgeries and was, at the time of his death, cancer-free. Goodwin and Blehr, along with Maryland residents Dr. Lawrence Egbert, 81, and Nicolas Sheridan, 60, were arrested in connection with Celmer’s death and charged with assisted suicide (a felony in Georgia), tampering with evidence, and racketeering in violation of the Georgia RICO Act. [GBI Press Release, 2/25/09] Dr. Egbert, FEN’s medical director, had approved Celmer’s suicide request, as he had all the estimated 130-plus FEN suicide deaths over the past four years since the group was formed. [Atlanta Journal-Constitution, 3/8/09]

Another FEN death under investigation is the April 2007 suicide of Jana Van Voorhis, 58, a Phoenix, Arizona, woman with a long history of mental illness and imagined physical ailments. Dr. Egbert and FEN’s medical evaluation committee declared her eligible for their death service after only speaking with her by phone. [Phoenix New Times, 8/23/07; 2/25/09]

#### The suicide process

The GBI’s investigation revealed the process FEN uses for suicides. After paying a \$50 FEN membership fee and applying for suicide assistance, the member is visited by an exit guide, who instructs the member to buy two helium canisters and a clear plastic “Exit Bag” customized with tubing to

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## Annual report shows Oregon set new assisted-suicide records in 2008

According to the Oregon Department of Human Services' newly released statistical report on physician-assisted suicide (PAS) deaths in 2008, a record high 88 prescriptions for lethal drugs were written by a record-setting 59 doctors. Of those patients who received prescriptions, 60 took the drugs and died—a record high for the 11 years that Oregon's PAS practice has been legal. The total number of reported PAS deaths in Oregon since the Death with Dignity law was enacted in 1997 is now 401. [OPHD, *11<sup>th</sup> Annual Report on Oregon's Death with Dignity Act*, 3/3/09; <http://www.oregon.gov/DHS/ph/pas/ar-index.shtml>.]

The 2008 report set yet another record—this one for brevity. It consists of only a two-page “Summary” and one table, two-and-a-half pages long. By contrast, the 2004 report was 25 pages long. “It appears that the more PAS deaths there are, the shorter and more incomplete the state's report is for that year,” observed Kathi Hamlon, an ITF policy analyst.

The data used in Oregon's annual PAS reports is obtained almost exclusively from the very doctors who provided the lethal drug prescriptions to patients. Since Oregon's law does not give the state any authority or resources to investigate PAS cases, there is no way to know whether additional cases went unreported or whether the reports provided by the participating doctors were even accurate. While doctors are required by law to report their PAS cases to the state, there is no penalty if they neglect to do so.

According to George Eighmey, executive director of the assisted-suicide advocacy group Compassion & Choices of Oregon (C&C-O), his organization facilitated the deaths of 88% (53 out of 60) of the PAS patients who died in 2008. [*Oregonian*, 3/4/09] As the self-proclaimed “steward” of the assisted-suicide law, C&C-O maintains a network of willing PAS-prescribing

doctors and tight control over just what information is released to the public. This fact prompted the *Oregonian's* editorial board to recently opine, “Essentially, a coterie of insiders run the [PAS] program, with a handful of doctors and others deciding what the public may know....” [*Oregonian*, 9/20/08]

The chart on page 3 lists some of the categories contained in the PAS annual reports over the past eleven years and the corresponding statistics for each category. Of particular note is the extraordinarily low number of PAS-requesting patients who were referred for a psychological evaluation. In 2007, not one of the 49 patients who died was referred for an evaluation. In 2008, only two patients (3.3%) out of the 60 who died were evaluated. The overall, eleven-year total for psychological evaluations was only 38 (9.6%) out of the 401 who died.

### Studies shed light on PAS practice

The fact that PAS doctors are generally not questioning the state of mind of their death-requesting patients flies in the face of a recent Oregon Health & Science University (OHSU) study that found that one in four PAS patients is

likely to be clinically depressed. (See *ITF Update*, 2008, No. 4. p. 2.) Researchers concluded that Oregon's PAS law “may fail to protect some patients whose choices are influenced by depression....” [Ganzini et al., *British Medical Journal*, 10/8/08]

Another OHSU study, published in March of this year, found that patients who request assisted suicide do so, not because of their current physical symptoms or quality of life, but because of their fears regarding possible suffering in the future. Researchers concluded,

At the time they express initial interest in PAD [physician-assisted death], Oregonians are motivated by worries about future physical discomfort and losses of autonomy and function. When confronted with a request for PAD, health care providers should first work to bolster the patient's sense of control and to educate and reassure the patient regarding management of future symptoms. [Ganzini et al., *Archives of Internal Medicine*, 3/9/09]

In other words, Oregon doctors should first address PAS patients' fears before writing them off with a lethal prescription. ■

## Status of state assisted-suicide bills in the US

This year, Oregon-style bills to legalize assisted suicide have been introduced in Connecticut (Raised Bill 1138), Hawaii (HB 806), Massachusetts (HB 1468), New Hampshire (HB 304), New Mexico (HB 814), and Pennsylvania (SB 404). In Montana, a draft of an assisted-suicide bill (LC 1818) surfaced early this year, but was never introduced in the legislature.

Thus far, assisted-suicide advocates have not had much to cheer about. The Connecticut, Hawaii, and New Mexico bills have all failed to get the support needed to advance in the legislature. New Hampshire's bill, which significantly expanded the boundaries of Oregon's PAS law, has been retained in the House Judiciary Committee. It will likely be studied and revised, but is not expected to come up for a vote until January 2010, at the earliest.

The only bills still pending are in Massachusetts and Pennsylvania. However, the Pennsylvania bill's sponsor said the bill is a long way from passage, and she doesn't expect it to be heard in a committee until next year. [WFMZ-TV, 4/10/09]

Meanwhile, in Montana, an appeal of a District Court judge's ruling legalizing assisted suicide is pending before the Montana Supreme Court. ■

# 11 Years under Oregon's Assisted-Suicide Law

Report data supplied by lethally prescribing doctors, pharmacy reports, and death certificates.<sup>1</sup>

Categories	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total
No. of reported assisted-suicide deaths	16	27	27	21	38	42	37	38	46	49	60	401
No. of reported lethal prescriptions written	24	33	39	44	58	68	60	[64] <sup>2</sup> <u>65</u> <sup>3</sup>	65	85	88	[628] <sup>4</sup> <u>629</u> <sup>5</sup>
No. of reporting MDs who wrote lethal prescriptions in a given year	[14] <sup>2</sup> <u>NR</u> <sup>3</sup>	[22] <sup>2</sup> <u>NR</u> <sup>3</sup>	22	33	33	42	40	39	40	45	59	[389] <sup>4</sup> <u>353</u> <sup>5,6</sup>
1st doctor asked wrote lethal prescription	8	8	11	NR	NR	NR	NR	NR	NR	NR	NR	?
No. of cases where prescribing MD was present when lethal drugs taken	→	→	→	→	→	34 <sup>7</sup>	6	8	15	11	11	85
Duration (weeks) of patient-doctor relationship – <i>Median:</i> <i>Range:</i>	11 2-540	22 2-816	8 1-853	14 0-500	11 0-379	10 0-405	12 0-1065	8 0-678	15 1-767	8 0-1440	8 0-916	10 0-1440
<b>Patients' reasons for wanting assisted suicide – Fear of</b>												
<i>Being a burden:</i>	2	7	17	4	14	16	14	16	20	22	20	152
<i>Losing autonomy:</i>	12	21	25	16	32	39	32	30	44	49	57	357
<i>Lost control of bodily functions:</i>	→	→	→	→	→	→	121 <sup>8</sup>	17	27	31	37	233
<i>Inadequate pain control or concern about it:</i>	2	7	8	1	10	9	8	9	22	16	3	95
<i>Inability to do enjoyable activities:</i>	11	22	21	13	32	39	34	34	44	42	55	347
<i>Treatment financial implications:</i>	0	0	1	1	1	2	2	1	0	2	2	11
<i>Loss of dignity:</i>	NR	NR	NR	NR	NR	39	29	34	35	42	55	<u>228</u> <sup>5</sup>
Patients referred for psychiatric evaluation	5	10	5	3	5	2	2	2	2	0	2	38
Complications –												
Regurgitation:	0	0	1	1	2	3	3	2	4	3	0	19
Patient awoke after taking drugs:	0	0	0	0	0	0	0	1	0	0	0	1
Unknown:	1	1	2	0	0	0	0	1	2	0	2	[9] <u>10</u> <sup>9</sup>
Minutes from drug intake to death – <i>Median:</i> <i>Range:</i>	22 10 mins–12 hrs	30 4 mins–26 hrs	30 5 mins–75 hrs	25 5 mins–37 hrs	20 5 mins–14 hrs	20 5 mins–48 hrs	25 5 mins–31 hrs	26 5 mins–9.5 hrs	29 1 min–16.5 hrs	25 6 mins–83 hrs	15 2 mins–25 hrs	25 1 min–83 hrs <sup>10</sup>
Days between writing of lethal prescription and death – <i>Median:</i> <i>Range:</i>	2 0-22	7 0-247	NR	NR	NR	NR	NR	NR	NR	14 0-462	NR	7 0-698 <sup>11</sup>
Reported incidents of non-compliance with ODHS reporting protocols	0	0	1	1	0	1	1	4	10	0	2	20
Penalties imposed for non-compliance with assisted-suicide law	0	0	0	0	0	0	0	0	0	0	0	0

- The ODHS has acknowledged that it has no way of knowing if data provided by prescribing doctors are accurate or complete. The Pharmacy Dispensing Report simply asks for general information (ie, patient & physician names and drugs prescribed) but no data on patient's case. Death certificates do not indicate drug overdose as true cause of death.
- Bracketed statistics are the figures the Oregon Department of Human Services (ODHS) previously reported for that category in their annual report for that year.
- Underlined statistics are the new figures for those previous years which the ODHS reported in the 2006 report. The ODHS gave no reasons for the statistical changes.
- This is what the total would have been if the ODHS had not changed the data reported prior to 2006.
- This total reflects the changed data the ODHS reported in the 2006 for years 1998 to 2005.
- Since the ODHS reports do not identify the lethally prescribing doctors, there is no way to determine the total number for the 10-year span. The same doctor could have written multiple lethal prescriptions for multiple patients since 1998.
- 7<sup>th</sup> Annual Report (for 2003) changed the cumulative figures for 1998 to 2003 to this total.
- 8<sup>th</sup> Annual Report (for 2004) changed the cumulative figures for 1998 to 2004 to this total.
- 10<sup>th</sup> Annual Report (for 2007) changed the 10-year, overall total for cases involving unknown drug complications from 7 to 8—even though the report for 2006 listed 7 such cases, and there were 0 cases reported for 2007. No explanation for the change was given.
- Without explanation, the 11<sup>th</sup> Annual Report (for 2008) changed the total range of time between drug intake and death to 1 min.–48 hrs. Given the statistic for this category from the 2007 report, the correct range should be 1 min.–83 hrs (the total on the above chart).
- This total was reported in the 10<sup>th</sup> Annual Report (for 2007) without explanation. The category was not included in the reports for 2000–2006 and 2008.

NR = Not Reported

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## Dignitas head: Death on demand saves money

Ludwig Minelli, founder and director of the Swiss suicide clinic Dignitas, recently told BBC Radio that assisted suicide is a human right that should be available “on demand” to anyone who has the capacity to choose it. Moreover, he said, it could save Britain’s National Health Service “huge costs” resulting from botched suicide attempts. “In many, many cases, [those attempting suicide] are terribly hurt afterwards, sometimes you have to put them in institutions for 50 years, very costly.” [BBC, 4/2/09; *Daily Mail*, 4/8/09]

Minelli touted suicide as “a marvelous possibility given to a human being.” “Suicide is a very good possibility to escape a situation which you can’t alter,” he explained. [*Telegraph*, 4/2/09]

Dignitas has facilitated the deaths of approximately 1,000 clients worldwide, more than 100 of those from Britain.

Minelli admits that Dignitas helps the mentally ill—even those with schizophrenia and bipolar disorders—to die. As a result, Swiss psychiatrists refuse to work with Dignitas, so Minelli allows patients to provide their own mental assessment papers. [*Times* (London), 4/3/09]

Now Minelli plans to test the legality of aiding the suicide of a healthy Canadian woman whose husband is terminally ill. The couple told Minelli that they want to die together at his clinic. [BBC, 4/2/09]

Currently, Swiss authorities are investigating Minelli, who reportedly has become a millionaire, for profiting from Dignitas deaths. Swiss law allows assisted suicide only if it’s done without selfish motives. The clinic is also under investigation for dumping the ashes of about 300 clients into Lake Zurich. [*Telegraph*, 1/7/09; *Times*, 10/25/08] ■

## Luxembourg legalizes euthanasia

Following the Netherlands and Belgium, Luxembourg has become the third country in Europe to legalize both euthanasia and assisted suicide. The new law, which took effect on April 1, grants doctors legal immunity from “penal sanctions” and civil lawsuits if they directly kill or assist the suicide of a patient with a “grave and incurable condition,” who has repeatedly asked to die. The doctor must first consult another physician to verify the patient’s condition.

Luxembourg’s Grand Duke Henri had refused to sign the euthanasia bill into law—a requirement mandated by the nation’s constitution. Parliamentary supporters were so intent on legalizing euthanasia, that they passed a constitutional amendment to eliminate that requirement and reduce the monarch’s power. [*Brit. Med. Journal*, 3/24/09] ■

### Final Exit Network, continued from page 1

connect to the helium tanks. On the day of the scheduled suicide, the member is visited by both the exit guide and a senior exit guide who explains the details involved in bringing about the member’s death. After the member is dead, the exit guides remove all evidence from the scene and make it look as though the member died naturally. [GFI Press Release, 2/25/09; AP, 3/2/09] “It’s grotesque,” said ITF Executive Director Rita Marker. “There’s no dignity in getting a plastic bag over your head.” [*LA Times*, 2/27/09]

Key in the case against the 3,000-member FEN will be testimony by the GBI undercover agent who infiltrated the organization by claiming to have pancreatic cancer (a claim, the GBI said, FEN accepted without requesting confirmation). [*Atlanta Journal-Constitution*, 2/25/09] When senior exit guide Ted Goodwin demonstrated what would happen after the agent put the plastic bag over his head, “[Goodwin] got on top of him and held his hands down,” explained GBI spokesperson John Bankhead. “[He] firmly held his hands down so he couldn’t move.” This action, Bankhead said, would have prevented the agent from removing the bag during an actual suicide if he had changed his mind. In the Celmer case, for which Goodwin and Blehr have been charged, both exit guides admitted they held Celmer’s hands down. [NBC News 11, 2/27/09; *NY Times*, 3/11/09]

FEN’s new president, Jerry Dincin, denied the allegation that exit guides restrain the hands of soon-to-be dead

members. While he admits that holding hands is a part of the assisted-suicide process, he said exit guides do it “in the way that you would a frightened child, to calm them.” But FEN’s own “First Responder Information” form reportedly outlines why exit guides might want to firmly hold a member’s hands down: once the process starts, if the flow of helium is interrupted, severe brain damage could result—and they would have a botched suicide on *their* hands. [*Sunday Paper* (Atlanta), 3/29/09]

### Compassions & Choices tries to distance itself from FEN

In an article written shortly after the FEN arrests, Barbara Coombs Lee, head of the assisted-suicide advocacy group Compassion & Choices (C&C), went to great lengths to distance her group from FEN. “Compassion & Choices has no affiliation with FEN,” she wrote. [*Huffington Post*, 2/27/09]

But both groups have a lot in common. Both are Hemlock Society spin-off groups; both offer “aid-in-dying” or “self-deliverance” services (euphemisms for assisted suicide) to those who live where assisted suicide is not legal; both are members of the World Federation of Right to Die Societies; and, despite C&C’s claims to the contrary, both have the same goal: death on demand for anyone claiming to be suffering. [Stanton J. Price, “Different assisted-suicide groups, one goal,” *LA Times*, 3/27/09] ■



## News briefs from home & abroad . . .

- A new “**conscience rule**”—promulgated by the Bush administration and issued by the US Department of Health & Human Services (HHS)—took effect in January 2009. Its intent was to protect the right of health care workers to refuse to engage in medical procedures and treatments that they considered to be ethically or morally objectionable. No one has been more opposed to the new rule than assisted-suicide advocate Barbara Coombs Lee, executive director of Compassion & Choices (C&C). She has repeatedly called upon the new Obama administration to overturn the “meddlesome” rule that, she said, encourages “healthcare workers to obstruct needed treatment considered offensive to their personal beliefs.” (Apparently, she considers assisted suicide a “needed treatment.”) “I’m determined,” she wrote, “to continue blogging about the issue until it is repealed.” [C&C Blog, 2/11/09]

On February 27, the Obama administration (via HHS) issued a notice that it intends to rescind the conscience rule. [NY Times, 2/28/09] During the subsequent public comment period, ITF Associate Director Wesley J. Smith submitted his assessment of the conscience rule to HHS and urged that it be revised, not revoked. He wrote that the rule should:

- protect medical professionals against being discriminated in their employment because they refuse to take a human life;
- distinguish between elective and non-elective (i.e., life saving) medical procedures, with greater worker protection for not participating in objectionable elective procedures;
- insure that conscience guarantees apply only when a procedure or treatment is objectionable, and not used to discriminate against certain patients;
- establish that conscience protection is given to only bona fide health care professionals, such as nurses, physicians and pharmacists. [Smith, Comment to Proposed Rule, AB 49, 4/2/09]

The administration’s final determination on the conscience rule is pending.

- Few places in the world have been as deeply embroiled in the debate over assisted suicide as the UK. One reason is that over 100 Britons have committed suicide at the Swiss assisted-suicide clinic, Dignitas. Assisted-suicide advocates in Britain—with a lot of help from the media—have been persistently in the news, calling

for Parliament to legalize the practice so that patients won’t have to travel to Switzerland to die, and family and friends won’t face prosecution if they go with them. To that end, former British Health Secretary Patricia Hewitt, with the support of 100 members of Parliament (MPs), introduced an amendment to the **Government’s Coroners & Justice Bill** to protect those who accompany loved ones to the Swiss death clinic—even though there have been no prosecutions in relation to any of the 100-plus Dignitas deaths of British citizens. Hewitt admitted that her amendment was only the first step in a larger campaign to legalize assisted suicide and establish local suicide clinics in the UK. [Sky News, 3/20/09; Times, 3/20/09; Daily Mail, 3/21/09; Mirror, 3/21/09] But, on March 23, despite all the media hype, the expected debate on Hewitt’s amendment in the House of Commons never happened. The session time ran out before the MPs could address the issue. Assisted-suicide proponents were outraged, but said they are hopeful the amendment will be taken up later in the House of Lords. [Telegraph, 3/23/09]

- In Scotland, the push for legalized assisted suicide is being championed by Scottish Parliament member (MSP) Margo MacDonald. MacDonald, who has **Parkinson’s disease**, hopes to introduce her “End of Life Choices (Scotland) Bill” later this year, but she needs to get 18 MSPs to support the bill before she can do so. Thus far, just 12 have endorsed the measure. In an attempt to garner more support, MacDonald requested input from fellow MSPs and the public, which resulted in her narrowing the categories of patients eligible for an induced death. As it now stands, there are three categories: (1) those who are terminally ill; (2) those with progressive or degenerative conditions, like Parkinson’s; and (3) those who are totally dependent on others because of trauma from crashes or sports injuries. [Scotsman, 3/25/09; BBC, 3/25/09; Herald, 3/26/09]
- A survey of 3,733 physicians practicing in the UK, found that two-thirds opposed the legalization of euthanasia and physician-assisted suicide. Of those opposed, 61% indicated their opposition without qualification. According to the study, published in the journal *Palliative Medicine*, only 9% of doctors felt certain that practitioners should be permitted to end patients’ lives if they had incurable and painful illnesses. It also revealed that palliative care specialists were the group most opposed to both induced death practices, followed

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by doctors specializing in elder care—the two specialties with the most experience with dying patients. [Seale, *Palliative Medicine*, 3/25/09]

- The chairman of **Belgium’s euthanasia** commission, Wim Distelmans, wants to change the country’s euthanasia law so that the elderly who are tired of living can be euthanized, even if they are not ill or suffering unbearably. He said that seniors have to endure many things, like poor hearing, poor verbal skills, and dependence on others. “Put together, this could amount to unbearable suffering,” Distelmans explained. “I don’t believe it’s wrong to request euthanasia in such situations.” He made these comments in connection with the case of Amelie Van Esbeen, 93, whose request for euthanasia was granted after she went on a 10-day hunger strike and

doctor shopped until she found one willing to euthanize her. Her regular doctor had refused her request because she was not terminally ill and did not experience unbearable, intractable pain or suffering as stipulated by law. Approximately 2,700 people have been euthanized since Belgium legalized the practice in 2002. [*Expatica*, 3/24/09; 4/3/09]

- A court in Hamburg has ruled that **Germany’s Dr. Death**, former justice minister Roger Kusch, can no longer assist suicides for financial gain. Kusch, who charged over \$10,000 for how-to-commit-suicide advice, has helped three women and two men die. None were terminally ill. [*British Medical Journal*, 2/18/09] After the court ruling, Kusch closed down his suicide service. [*Hamburger Morgen Post*, 2/21/09] ■

The International Task Force on Euthanasia & Assisted Suicide is a human rights group formed in 1987 to meet the urgent need for individuals and organizations who oppose euthanasia to work together to: provide information on euthanasia and related issues; promote and defend the right of all persons to be treated with respect, dignity and compassion; resist attitudes, programs and policies which threaten the lives of those who are medically vulnerable.

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