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Patients Rights Council

Update

Canadian Supreme Court declares both euthanasia & prescribed suicide legal

In a unanimous decision that essentially usurps the power of the Federal Parliament to make or change laws, the Canadian Supreme Court struck down the country's longstanding ban on assisted suicide and overturned its own 22-year-old ruling declaring the ban constitutional.

According to the Supreme Court justices, the Canadian Criminal Code's assisted-suicide prohibitions "unjustifiably infringe" on the *Charter of Rights and Freedoms* "and are of no force or effect to the extent that they prohibit physician-assisted death for a competent adult person who (1) clearly consents to the termination of life and (2) has a grievous and irremediable medical condition (including an illness, disease or disability) that causes enduring suffering that is intolerable

to the individual in the circumstances of his or her condition." [*Carter v Canada (Attorney General)*, 2015 SCC 5, Case No. 35591, at 147, 2/6/15]

By so ruling, the justices legalized both assisted suicide (where the patient commits the last act of self-administering the lethal drugs) and euthanasia (where the doctor or another person commits the last act (e.g., giving a lethal injection). Moreover, the Court chose *not to limit* this new legal type of death to patients who are terminally ill or those experiencing physical pain or suffering. Now existential or psychological suffering also qualifies a patient for death.

The Court suspended its ruling for twelve months to allow the Federal Parliament and provincial legislatures to enact "legislation consistent with

the constitutional parameters set out" in the decision. [*Carter*, at 126] If the Federal Government opts not to pass such legislation—or more likely runs out of time due to a mid-October federal election and the House of Commons' term ending in June—the Court's ruling will take effect without any regulations, procedural or otherwise. That's what happened when the Court struck down the country's abortion law in 1988. [*Globe & Mail*, 2/6/15]

But the Government has another option: to use the "notwithstanding clause" in the *Charter of Rights and Freedoms* to override the Supreme Court ruling and maintain the ban on assisted suicide. However, no previous Canadian government has ever used

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Are activists trying to legalize assisted suicide in your state?

Trying to cash in on the widespread empathy generated by its media campaign featuring Brittany Maynard (the young woman with brain cancer who moved to Oregon last year to die using the Death with Dignity law), the assisted-suicide activist group Compassion & Choices (C&C)—aided by the Death with Dignity National Center (DWDNC)—is pushing hard for doctor-prescribed suicide legalization in a growing number of states. Here is an update on 2015 developments by state:

Alaska: On February 9, Rep. Harriet Drummond introduced HB 99 (An act relating to the voluntary termination of life by terminally ill individuals), a bill patterned after Oregon's law. Previously, a 1996 bill and a 1998 lawsuit to legalize assisted suicide in Alaska failed.

California: C&C is pulling out the stops in California, the only remaining West Coast state

that has repeatedly rejected assisted-suicide measures. The activist group's legalization campaign is two-fold. First, on January 20, Democratic Senators Bill Monning and Lois Wolk introduced SB 128 (End of Life Option Act). Based on the Oregon law, SB 128 would carve out an exception to California's Penal Code 401 to grant doctors immunity from prosecution if they provide terminally-ill patients with a lethal drug prescription. Since it could take up to two years for the legislature to act on the bill, Kathryn Tucker, C&C's former legal director and now executive director of the Disability Rights Legal Center in Southern California, filed a lawsuit on behalf of two cancer patients and five doctors (two with cancer) to speed up the process. The suit argues that when a dying patient opts for "a peaceful death" it is not a "suicide," so a doctor cannot

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Are activists trying to legalize assisted suicide in your state? *continued from page 1*

violate the state's assisted "suicide" law if they provide the patient with the means to end his or her life. The suit, *Brody v. Harris*, was filed in Superior Court (San Francisco) on February 11.

Colorado: On January 27, after weeks of C&C's media hype, Colorado Reps. Lois Court and Joann Ginal and Sen. Lucia Guzmán introduced HB 15-1135 (The Colorado Death with Dignity Act), a virtual clone of Oregon's law. After hearing 11 hours of testimony on February 6, members of the Public Health Care & Human Services Committee defeated the measure by a vote of 8-5, citing the bill's lack of safeguards and inability to prevent abuse.

Connecticut: For the third year in a row, the Connecticut General Assembly is faced with an assisted-suicide bill. Proposed Bill 668 (An Act Providing a Medical Option of Compassionate Aid in Dying for Terminally-ill Adults) was introduced and referred to the Senate Judiciary Committee on January 23. On the same day, the state government announced massive budget cuts to services for people with disabilities—highlighting the danger SB 668 would pose to vulnerable patients, especially those with no or reduced support services.

Iowa: House File 65 (The Iowa Death with Dignity Act) was introduced and referred to the Human Resources Committee on January 21. The bill is sponsored by nine House Democrats. As yet, no hearing has been scheduled. A previous bill, HB 2425, was defeated in 2006.

Kansas: HB 2150 (Kansas Death with Dignity Act), patterned after the Oregon law, was introduced on January 28 and referred to the House Committee on Health & Human Services. As of this writing, no further action has been taken. In 2013, two similar measures, HB 2068 and HB 2108, died in committees.

Maine: No assisted-suicide bill has been introduced as yet this year, however, the *Portland Press-Herald* (2/23/15) reported that four state representatives and one senator are currently drafting one. Maine has been targeted by C&C and the DWDNC before: five bills (between 1995 and 2013) and a 2000 ballot initiative. All bills were defeated as was the initiative.

Maryland: Two companion Oregon-style bills, HB 1021 and SB 676, were introduced in February. They have a unique title: the "Richard E. Israel & Roger 'Pip' Moyer Death with Dignity Act." Israel is a former legal counsel to the legislature, and Moyer, who died last year from Parkinson's disease, was a Ward 1 alderman. Apparently the bills' sponsors wanted to make the measures more personal for lawmakers by naming the bills after people legislators knew or at least recognized. But reportedly, even if a combined bill were to pass in the General Assembly, Gov. Larry Hogan would likely veto it. Hogan has been described as "a strong opponent of the 'right to die.'" [*Daily Caller*, 2/3/15]

Massachusetts: HD 1674 (Massachusetts Compassionate Care for the Terminally Ill Act) was introduced by Rep. Louis Kafka,

who also sponsored several previous prescribed-suicide bills. Modeled after the Oregon Law, HD 1674 contains serious loopholes that place patients at great risk. Massachusetts has a long history of failed assisted-suicide measures dating back to 1995. In 2012, an initiative similar to Kafka's current bill was defeated by voters.

Missouri: Patterned after the Oregon law, HB 307 (Missouri Death with Dignity Act) was introduced by Rep. Kimberly Gardner and had its first reading on January 7, followed by a second reading on January 8. To date, the House website does not indicate if the bill has been referred to a committee, and it is currently not listed on the House calendar.

Montana: Since 2009, when the Montana Supreme Court ruled that there was no state statute or court ruling banning doctor-assisted suicide, legislators on both sides of the issue have been trying to pass bills to either expressly allow the practice and establish guidelines or to specifically prohibit the practice. All attempts prior to this year have been unsuccessful. In 2015, three bills were introduced: SB 202 (Montana Death with Dignity Act, introduced January 21), HB 328 (An Act Providing That Consent to Physician Aid in Dying Is Not a Defense to the Charge of Homicide, introduced January 28), and HB 477 (An Act Revising Aiding or Soliciting Suicide Laws, introduced February 12). SB 202, which would have allowed assisted suicide, was heard by the Senate Judiciary Committee on February 17 and subsequently tabled. HB 328, which would have made doctors criminally liable if they engaged in suicide assistance, was heard by the House Judiciary Committee on February 10 and passed, but then was voted down at its Second Reading on February 17. Only HB 477, which makes prescribed suicide against public policy, remains alive after being passed by the House Judiciary on February 20.

Nevada: Last year, two state senators announced that they were independently going to introduce Oregon-style bills in the next legislative session. Thus far, no bills have been introduced.

New Jersey: Modeled after the Oregon law, New Jersey's companion bills A 2270 and S 382 (Aid in Dying for the Terminally Ill Act) were introduced early last year. A 2270 was passed by the Assembly on November 13, 2014. A month later, S 382, passed out of the Senate Health, Human Services and Senior Citizen Committee, but without a recommendation for full Senate approval. The next step for the measure will be a Senate floor vote in 2015, which has not been scheduled as yet. Should the bill pass, it is likely that Gov. Chris Christie will veto it. He has said, on a number of occasions, that he has grave concerns regarding the measure.

New Mexico: On January 26, the New Mexico Court of Appeals heard arguments in *Morris v. New Mexico*, a suit filed in March 2012 by C&C and the ACLU of New Mexico on behalf of two doctors and a cancer patient. A district court judge originally

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Don't be taken in by claims supporting Oregon-style "aid in dying"

In states where doctor-prescribed suicide advocates are pushing for legalized assisted suicide, the claim is often made that Oregon's law has been working well with adequate safeguards to protect patients. It's a claim without merit, since no one, not even Oregon State officials charged with overseeing the death practice, can say with any certainty that that is true.

State officials only know what the doctors who prescribed the lethal drug overdose tell them, and doctors are not going to report that they violated the assisted-suicide law in some way. What's more, officials have admitted that they cannot investigate individual prescribed-suicide deaths because the law does not give them the authority to do so. They also have no way of knowing how many cases are not even reported, meaning the state's annual reports are an incomplete picture of how the law is being implemented.

On February 12, 2015, Oregon released its latest assisted-suicide report showing that 105 people died in 2014 under the Death with Dignity Law. That is by far the largest number of deaths reported for any year since the law took effect and represents a 48% increase over 2013's reported body count of 71. Of the 155 reported lethal drug prescriptions written by 83 doctors, 94 patients (61%) ingested the drugs and died. Another 11 patients also died in 2014, but their prescriptions were written in 2012 and 2013—a clear indication that their doctors significantly erred in predicting that they only had 6 months or less to live. The state reported it has no clue whether 24 patients took the lethal drugs they were prescribed or even if they are alive or dead. Also unknown is whether there were any complications after the drugs were taken in 85 cases.

There were only 3 patients referred for a psychiatric evaluation in 2014. As in previous years, pain was low on the list of why patients requested assisted-suicide. Loss of autonomy, inability to enjoy life, and loss of dignity topped the list. [Oregon Public Health Division, "Oregon's Death with Dignity Act—2014," 2/12/15]

Reported Assisted-Suicide Deaths in Oregon 1998-2014

Report data supplied by lethally prescribing doctors, pharmacist reports, and death certificates.¹

Figures are those reported by the state in the 2014 report.

Categories	1998 - 2011	2012	2013	2014	TOTAL
No. of reported assisted-suicide deaths	596 ²	85	71	105	859 ²
No. of unreported assisted-suicide deaths	Unknown ¹	Unknown ¹	Unknown ¹	Unknown ¹	Unknown ¹
No. of reported lethal prescriptions written	935	116	121 ²	155	1327 ²
No. of reporting doctors who wrote lethal prescriptions in a given year	? ³	61	62	83	? ³
No. of cases where prescribing doctor was present when lethal drugs were ingested:	→	→	119 ⁴	14	133
Other care provider present:	→	→	238 ⁴	6	244
No provider present:	→	→	76 ⁴	4	80
Unknown:	→	→	251 ⁴	81	332
No. of cases where prescribing doctor was present at the time of death:	→	→	107 ⁴	14	121
Other care provider present:	→	→	263 ⁴	6	269
No provider present:	→	→	301 ⁴	81	382
Unknown:	→	→	13 ⁴	4	17
No. of patients referred for psychiatric evaluation	40	2	2	3	47
Patients' reasons for requesting assisted suicide:					
Loss of autonomy	→	→	686 [92%] ⁴	96 [91%]	782 [92%]
Inability to do enjoyable activities	→	→	667 [89%] ⁴	91 [87%]	758 [89%]
Loss of dignity	→	→	504 [81%] ⁴	75 [71%]	579 [79%]
Lost control of bodily functions	→	→	376 [50%] ⁴	52 [50%]	428 [50%]
Being a burden	→	→	300 [40%] ⁴	42 [40%]	342 [40%]
Inadequate pain control or concern about it	→	→	178 [24%] ⁴	33 [31%]	211 [25%]
Financial implications of treatment	→	→	22 [3%] ⁴	5 [5%]	27 [3%]
Complications after lethal drugs were ingested:					
Regurgitation	→	→	22 ⁴	0	22
Patient regained consciousness	→	→	6 ⁴	0	6
Unknown	→	→	244 ⁴	85	329
Reported incidents of physician non-compliance with the assisted-suicide law ⁵	22	0	0	0	22
Penalties imposed for non-compliance with the assisted-suicide law ⁵	0	0	0	0	0

Notes:

1. The Oregon Public Health Division (OPHD), the agency responsible for overseeing the practice of doctor-prescribed suicide, has acknowledged that it has no way of knowing if deaths went unreported or if the data provided by prescribing doctors are accurate or complete. The Pharmacy Dispensing Report simply asks for general information (i.e., patient & physician names and drugs prescribed) but has no data on patient cases. Death certificates, by law, do not even indicate drug overdose as the true cause of death.
2. The 2014 Report reflects the official totals from 1998 to 2014. However, some of the previous totals for recent years, as listed in each year's individual report when issued, were changed in the 2014 Report with no explanation given.
3. Since the OPHD reports do not identify the individual, lethally-prescribing doctors, there is no way to determine the total number of doctors who wrote prescriptions beyond a year at a time.
4. In the 2014 Report, this is the combined total for 1998 through 2013. In some categories, the totals may differ from figures reported in previous years. No explanation for the change is given.
5. This category is not included in the 2014 Report's statistical table. The text of the report, however, states, "no referrals were made to the Oregon Medical Board for failure to comply with DWDA requirements." The 22 cases of non-compliance listed above were cited in previous annual reports. No doctor has been penalized for non-compliance.

Source:

Oregon Public Health Division, "Oregon's Death with Dignity Act - 2014," released 2/12/15.

All 17 annual reports are available online at: <http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Pages/ar-index.aspx>

Are activists trying to legalize assisted suicide in your state? continued from page 2

heard the case and ruled in January 2014 that the New Mexico Constitution guarantees terminally-ill patients the “fundamental right” to choose “aid in dying.” The ruling struck down the assisted-suicide law in Bernalillo County only. The state appealed the ruling, and, before a panel of three appellate judges, argued it was up to the legislature to change the law, not the court. An Appeals Court ruling in this case is expected within six to 12 months.

New York: Like the situation in California, the prescribed-suicide legalization strategy in New York is two-pronged, aimed at both the legislature and the courts. On February 17, C&C announced that it had partnered with Senators Diane Savino and Brad Hoylman to introduce S 3685 (New York End of Life Options Act). A similar bill, A 2129 (The Death with Dignity Act) was introduced on January 15 by Assemblywoman Linda Rosenthal. S 3685 has been referred to the Senate Health Committee and A 2129 to the Assembly Health Committee. As yet, no hearings have been scheduled. The lawsuit challenging New York’s law banning assisted suicide was filed in State Supreme Court on February 4. Kathryn Tucker—who is also behind the California lawsuit and has litigated all the major assisted-suicide cases brought by C&C, including the two that went to the US Supreme Court—filed the suit on behalf of three patients and five doctors. Also listed as a plaintiff is the organization End of Life Choices New York, which until very recently operated under the name Compassion & Choices of New York. The Complaint asks the court to declare “that a physician who provides aid-in-dying to a mentally-competent, terminally-ill patient who has requested such aid is not criminally liable under New York’s Assisted Suicide Statute.” [*Myers v. Schneiderman*, Complaint, at 3, 2/4/15]

Oklahoma: HB 1673 (Oklahoma Death with Dignity Act) was introduced by Rep. Steve Kouplen on January 22 and referred to the House Public Health Committee on February 3. No further action has been taken.

Rhode Island: Introduced on February 12, H 5507 (Lila Manfield Sapinsley Compassionate Care Act) was referred to the House Health, Education & Welfare Committee. No hearing has been scheduled as yet.

Utah: On February 24, Rep. Rebecca Chavez-Houck introduced HB 391 (Utah Death with Dignity Act). The Oregon-style bill has been referred to the House Rules Committee. Gov. Gary Herbert told reporters the he is concerned that the measure will morph into “a right to suicide” for any reason law. [*Salt Lake City Tribune*, 2/24/15]

Vermont: In 2013, the Vermont legislature passed a doctor-prescribed suicide law, called Act 39 (Patient Choice & Control at End of Life). Included in the law is a “sunset” provision that will repeal five pages of procedure and documentation

“safeguards” on July 1, 2016. A bill (S 108) to repeal that provision is currently in the Health & Welfare Committee, chaired by Sen. Claire Ayer, Act 39’s chief sponsor in 2013. On February 18, Ayer held a hearing to find out how Act 39 is working and whether the safeguards should remain in the law. On February 26, the committee postponed any action on S 108 until March 11. Meanwhile, Vermont groups who recognize the huge flaws in Act 39 are mounting an effort to repeal the law entirely.

(Allegedly, since 2013, six lethal drug prescriptions were written and 3 people ingested those drugs and died. There are no official statistics because Act 39 does not authorize the Vermont Health Department to collect such data.)

Washington, DC: The Council of the District of Columbia will be grappling with its first ever assisted-suicide bill. A clone of the Oregon law, Legislation B21-0038 (Death with Dignity Act of 2015) was introduced by Councilmember Mary M. Cheh on January 14 and referred to the Health & Human Services Committee. The measure will be scrutinized by two additional committees and, at some point, a public hearing will be conducted. Cheh said she expects that the Council will take “the better part of a year before the bill is made law in the District.” [WTOP, 1/15/15]

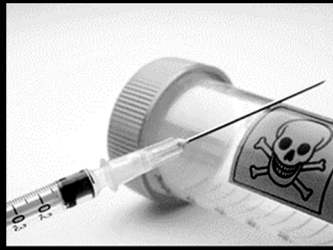
Wisconsin: For the eighth time since 1995, Sen. Fred Risser has introduced a bill to legalize doctor-assisted suicide. SB 28 (simply called Compassionate Choices) was introduced on February 11 by five state senators and 14 representatives. The Oregon-like measure was referred to the Committee on Health and Human Services for consideration. No hearing date has been scheduled as yet.

Wyoming: Claiming he had “a lot of quiet support” for his Oregon-style bill, Rep. Dan Zwonitzer introduced HB 119 (Death with Dignity) on January 22. [*Wyoming Daily News*, 1/20/15] The bill was referred to the House Travel, Recreation, Wildlife and Cultural Resources Committee, which quickly and unanimously tabled the measure on February 9. In addition, the committee recommended that the issue of assisted suicide be studied by a future interim committee. ■

Editor’s note: Of the 17 state legislatures (including the Washington DC Council) that have had new legalization bills introduced during the first two months of 2015, three (CO, MT, and WY) have already rejected their measures.

C&C claims that bills are also “on the move” in Delaware, Florida, and Pennsylvania. [C&C’s Email Message to Supporters, 2/25/15] As of March 2, no such measures have actually been introduced or reported on by the media.

For more information, please go to patientsrightscouncil.org or contact the Patients Rights Council at 800-958-5678.



Euthanasia Comes to Canada Are We Next?

Wesley J. Smith

This month, the Canadian Supreme Court trampled democratic deliberation by unanimously conjuring a constitutional right to “termination of life” for anyone who has an “irremediable medical condition” and wants to die. Note the scope of the judicial fiat is not limited to the terminally ill: The ruling grants competent adults a right to die if they have an “illness, disease, or disability that causes enduring suffering that is intolerable to the individual,” including “psychological” pain.

Even these broad words inadequately describe the truly radical social policy Canada’s Supreme Court has unleashed. For example, a treatable condition can qualify as “irremediable” if the patient chooses not to pursue available remedies. So an “irremediable” condition that permits life-termination may actually be wholly remediable, except that the patient would rather die than receive care.

Imagine the hypothetical Sally, with diabetes (or HIV, heart disease, neuropathy, early-stage cancer, you name it) that can be fully controlled by medication. She decides she wants to die (for whatever reason) and claims that available treatments are “not acceptable” to her. Presto chango, her theretofore treatable illness is suddenly an irremediable condition. Ditto Harley, who becomes clinically depressed after his business fails—a diagnosable “illness, disease, or disability”—and refuses psychiatric treatment in order to seek death.

But there’s more: The Supreme Court not only invalidated the federal law prohibiting assisted suicide for those with an irremediable medical condition, but also the law that states, “No person is entitled to consent to have death inflicted upon him, and such consent does not affect the criminal responsibility of any person by whom death may be inflicted on the person by whom consent is given.” Hence the court created a right in the Canadian Charter of Rights and Freedoms to Dutch-style active euthanasia.

Dutch- & Belgian-style euthanasia has invaded North American.

Doctors who morally object to killing patients might be forced to participate. The court gave Parliament 12 months to pass legislation consistent with its sweeping opinion, stating that “the rights of patients and physicians will need to be reconciled” by such legislation or left “in the hands of physicians’ colleges.”

That may leave doctors who embrace Hippocratic values twisting in the wind. Quebec, which legalized euthanasia last year, requires all doctors asked for death by a legally qualified patient to give the lethal jab or refer to a doctor who will. Profes-

sional medical societies in Canada also appear ready to quash physician conscience. The College of Physicians and Surgeons of Saskatchewan, for example, recently published a draft ethics policy that would force doctors with a moral objection to providing “legally permissible and publicly-funded health services”—which now include euthanasia—to “make a timely referral to another health provider who is willing and able to . . . provide the service.” If no other doctor can be found to do the deed, the original physician will be required to comply, “even in circumstances where the provision of health services conflicts with physicians’ deeply held and considered moral or religious beliefs.” In other words, a willingness to kill patients who want to die may soon become necessary to practice medicine in Canada.

What does this mean for the United States? First, Dutch- and Belgian-style euthanasia—in which psychiatrists can euthanize the mentally ill and general practitioners lethally inject the elderly “tired of life” and people with disabilities—has invaded North American shores. Since many Americans see our northern cousins as more socially enlightened, the ruling could ease the advocacy burden of assisted suicide advocates who work like termites to undermine Hippocratic values here. On the other hand, the decision does have the virtue of honesty—demonstrating unequivocally that assisted

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Canadian Supreme Court declares both euthanasia & assisted suicide legal, continued from page 1

that provision, and federal Justice Minister Peter MacKay has said that it is highly unlikely to happen in this case, even though Prime Minister Stephen Harper and his government have steadfastly opposed doctor-prescribed death. [Canadian Press, 2/11/15]

In addition to the Federal Parliament and regional legislatures, the justices have placed the implementation of their ruling in “the hands of the physicians’ colleges,” while stating that doctors are not compelled by the ruling to provide assisted death when asked. But the Court also emphasized that “the *Charter* rights of patients and physicians will need to be reconciled.” [Carter, at 132]

What that means may not be so clear-cut, and many doctors are concerned, given a recent commentary published in the *Canadian Medical Association Journal* stating that doctors with conscientious objections should be forced to refer patients to a colleague who is willing to end the patient’s life. If doctors are not forced to refer, then some patients would not be able to exercise their newly declared *Charter* right. [CMAJ, 5/13/14]

But practicing doctors are not the only ones deeply concerned about the Supreme Court ruling. “It’s a disaster for Canada,” explained Margaret Somerville, founding director of McGill University’s Centre for Medicine, Ethics and Law. “Canada has fallen over the edge of the abyss in legalizing the intentional infliction of death on our most vulnerable citizens,” she said. “This is not an incremental change, but a seismic shift in one of our most important foundational values—respect for human life at both the individual and societal levels,” she added. “I believe that future generations will look back on this decision, in the light of its future consequences, as the most important, harmful and regrettable ethical, legal and public policy decision of the 21st century.” [Hamilton Spectator, 2/7/15]

The disability community also expressed alarm, calling the ruling a judgment that “creates the potential for the most permissive and least restrictive criteria for assisted suicide in the world, putting persons with disabilities at serious risk.” [Council of Canadians with Disabilities, Commentary, 2/6/15] ■

Euthanasia Comes to Canada, continued from page 5

suicide is not about “terminal illness,” as domestic advocates mendaciously contend. Indeed, Barbara Coombs Lee, head of Compassion and Choices (formerly the Hemlock Society) lauded the ruling enthusiastically in a press release:

We applaud and thank the Canadian Supreme Court for placing the patient at the center of fundamental end-of-life decisions. The eloquence of this ruling will inspire everyone who believes in individual freedom at life’s end. We in the U.S. agree that denying people the ability to determine their own medical treatments and the degree of suffering they endure curtails liberty.

If Compassion and Choices really believed that assisted suicide should be strictly limited to the terminally ill, it would have criticized the decision as going too far. (Showing her true colors, Lee has also strongly implied she would support euthanasia for Alzheimer’s patients unable to make their own decisions, saying, “It is an issue for another day but is no less compelling” than legalizing euthanasia for the competent terminally ill.)

Finally, what are the prospects for a U.S. Supreme Court ruling forcing euthanasia down our collective throat? Not high in the short term. Advocates blundered in 1997 by seeking an assisted suicide *Roe v. Wade* before the issue was ripe culturally, culminating in two 9-0 decisions denying a constitutional right to doctor-facilitated death.

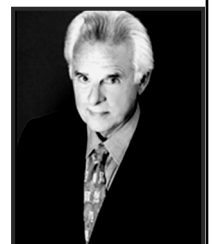
If Compassion & Choices really believed that assisted suicide should be strictly limited to the terminally ill, it would have criticized the decision as going too far.

But that should not make us sanguine. I expect assisted suicide advocates to pursue a jurisprudential strategy intended to give the Supreme Court a pretext for revisiting the issue: Obtain rulings by several state supreme

courts creating state constitutional rights to “aid in dying”—cases have just been filed in New York and California, and one is on appeal in New Mexico—while working to legalize assisted suicide through democratic means. Once a critical mass appears to have formed, argue that the changed social and legal circumstances justify a second Supreme Court review. Indeed, that is precisely the advocacy approach that convinced the Canadian Supreme Court to reverse its 1993 ruling against assisted suicide.

Twenty-two years ago, there was no right to assisted suicide in Canada. Now, with the flip of a judicial switch, there is a right to active euthanasia. The Canadian Charter of Rights and Freedoms didn’t change during that time. The arrogance of judges did. ■

Wesley J. Smith, J.D., is a consultant for the Patients Rights Council and a senior fellow at the Discovery Institute on Human Exceptionalism. His article appeared in the Weekly Standard on 2/23/15. Reprinted here with permission.





News briefs from home & abroad . . .

- **World Federation of Right to Die Societies (WFRTDS):** For right-to-die advocates, the word “suicide” is to be avoided at all cost. A 2013 Gallup poll showed that it’s definitely not a word with which the public feels comfortable—hence the use of the feel-good phrase “aid in dying,” coined by Compassion & Choices. But the WFRTDS, whose mailing address is in Amsterdam, is trying to come up with its own euphemistic terms for assisted suicide and euthanasia by conducting an on-line survey. According to the survey’s introduction, the English language doesn’t adequately distinguish different kinds of dying, especially the kind that intentionally hastens death. Survey respondents are asked how they feel about terms suggested by the survey team, including “self-deliverance,” “self-chosen death,” and (are you ready?) “dignicide.” The WFRTDS says it will share the survey result’s on its website, worldrtd.net, sometime in the future. [WFRTDS’ Email List-Serv, 2/10/15]

In a December 2014 interview, Dr. Faye Girsh, then president of the WFRTD, described a yet untested device that would provide a “more gentle” way to commit suicide. Girsh—a psychologist and “senior exit guide” with the suicide assistance group, Final Exit Network—called the device (are you ready, again?) “the killer potato.” “It’s a contraption with two potatoes that you place on your carotid arteries,” she explained. “Then you have this thing that tightens them automatically.” She said that the device is going to be presented at the next WFRTS world conference. [vice.com, 12/10/14] This is no joke.

- **The Netherlands:** A new Dutch study, published in the *Journal of Medical Ethics*, found that approximately four out of 10 doctors would be willing to euthanize or assist the suicide of a patient with early stage dementia, and one out three would do the same for a patient with advanced or late-stage dementia. A little over one in four said they would engage in the death-inducing practices for patients

who are simply tired of living if they also have a serious medical or psychiatric illness. [*Journal of Medical Ethics*, 2/18/15] According to another recent study, the Dutch euthanasia law allows doctors to terminate the lives of incompetent patients (including late-stage dementia and unconscious patients) if they have a euthanasia advance directive (even if it was signed years earlier), but doctors are usually reluctant to do so. [*BMC Medical Ethics*, 1/28/15]

The Dutch euthanasia clinic, Levenseindeliniek, has been officially reprimanded by the Regional Euthanasia Review Committee for the third time in the past year. The latest slap-on-the-wrist dealt with the euthanasia death of a 47 year-old woman with two children who had a severe case of tinnitus (ringing in the ears). The committee ruled that, while extreme tinnitus could qualify a patient for doctor-induced death, the clinic was careless by not having her undergo a psychiatric evaluation. The earlier two reprimands concerned the death of an elderly woman who did not want to go to a nursing home and the clinic’s failure to substantiate that a euthanasia patient experienced “unbearable suffering.” The clinic was founded in 2012 to provide mobile teams to go to the homes of people who had been refused euthanasia deaths by other doctors. In 2014, the clinic’s teams terminated the lives of 232 patients—a 73% leap over the 98 deaths reported in 2013. [*Netherlands Times*, 1/19/15, 2/12/15; dutchnews.nl 1/19/15]

- **Colombia:** The Colombian Constitutional Court has given the Ministry of Health 30 days to set up guidelines for health care providers to follow in euthanasia cases. The order was issued on February 17, but the practice of euthanasia was actually legalized in 1997 when the Court passed Article 326 of the penal code that deals with “mercy killing.”

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- At that time, the Court urged Congress to pass legislation to regulate the practice, but that didn't happen. "Without clear rules and precise procedures," the Court said, "doctors do not know exactly when they are committing a crime and when they are contributing to the realization of a fundamental right." Now health agencies have only 30 days to put together committees charged with advising and guiding patients and their families through newly established protocols for an induced death. [panampost.com, 2/19/15]
- **Germany:** The German Ethics Council issued a statement that rejects assisted suicide carried out with the help of doctors or other health care professionals. These services should be banned "when they are designed for repeated use and occur in a public context, giving them the apparent status of social normality," the statement said. Furthermore, legislation to regulate such a practice would establish "permissible, normal cases" of assisted suicide, which is not acceptable. While the Council supported the German Medical Association's position that helping patients die is not one of a doctor's duties, there was a troubling caveat in the statement. In "exceptional circumstances," the Council said, decisions of conscience made by a doctor in the context of a "trusting doctor-patient relationship" should be respected. Currently, assisting another's suicide is not a punishable offense in Germany, as long as that assistance only includes the provision of the means to death and does not include the administration of the means to directly cause death. However, commercial organizations that offer assisted-suicide services, like the Swiss suicide clinic Dignitas, are legally banned in Germany. The Ethics Committee is only an advisory body, and has no legislative power. [*Deutsche Welle*, 12/19/14; *The Local*, 12/19/14]
 - **Great Britain:** Lord Charles Falconer's "Assisted Dying Bill" is still technically alive in the House of Lords, but it has virtually no chance of passing in the Parliament before the general election in May, which will kill the measure. While the Oregon-style assisted-suicide bill had two committee-stage hearings (on 11/7/14 and 1/16/15), there remain over 150 amendments proposed by the Lords that need discussion. An additional day for deliberation has not been scheduled, and the Lords remain divided on the issue. Lord Falconer, a veteran "assisted death" bill sponsor who has failed in all prior attempts at legalization, has acknowledged that this latest bill will likely run out of time in the current Parliament. The bill's supporters, however, plan to bring it back in the next session. [*Guardian*, 1/17/15; *Daily Mail*, 1/16/15; *Daily Telegraph*, 1/16/15]
 - **Wales:** Wales, as part of the UK, comes under the jurisdiction of the British Parliament. So, if Parliament ever does pass Lord Falconer's bill, assisted suicide would become law in Wales as well. But that didn't stop the Wales Na-
- tional Assembly—the elected body that makes laws on specific issues—from debating Lord Falconer's "Assisted Dying Bill." On December 10, 2014, when the lively debate concluded and a vote was taken, the assisted-suicide bill was soundly defeated. Twenty-one members voted against it, only 12 supported it, and 20 abstained. [*Wales Online*, 12/10/14]
- **New Zealand:** The New Zealand Labor Party has effectively killed the "End of Life Choice Bill," a measure that would have legalized euthanasia and assisted suicide for adults who have less than 12 months to live or have an irreversible physical or mental condition that the person considers unbearable. Party leader Andrew Little withdrew support for the bill even though it was sponsored by the party's own spokesman, Iain Lees-Galloway. "It comes down to priorities at the moment," Little said. "There are more people affected by weak labor market regulation and weak economic strategy than they are about the explicit choices about how they die," he added. [*New Zealand Herald*, 12/15/14; *International Business Times*, 12/15/14]
 - **USA:** Melinda Pinkerton, a 26-year-old Ohio resident, has Neurofibromatosis Type 2 that has left her deaf, nearly blind, unable to walk without a walker, with non-cancerous tumors all over her body, including eight major tumors on her brain, three on her spinal cord, and 40 to 50 on her spine. Her father, a primary care physician for 20 years, gave up his practice to be with his dying daughter. But Melinda savors life and is disturbed when people opt for assisted suicide. She was devastated when Brittany Maynard took her life since she had so much life left to live. Melinda's father said she cried "the hardest tears I have seen her have at all with this disease." She said "I've done a lot of things that Brittany's robbing herself of." In her January 13 blog, which she writes with two fingers, Melinda said, "I have a peace. It did not come without tears and questions and frustration... [but] in this peace, I am happy ." [*Xenia Gazette*, 3/2/15] ■

The Patients Rights Council is a human rights group formed to promote and defend the right of all patients to be treated with respect, dignity and compassion and to work with individuals and organizations to resist attitudes, programs and policies which threaten the lives of those who are medically vulnerable. To those ends, the PRC compiles well-documented and up-to-date information on a whole range of end-of-life issues, including health care advance directives, futile care policies, health care reform, and doctor-prescribed death.

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