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Patients Rights Council

Update

Activists try to push prescribed-suicide bills in states across the country

This year has seen a record number of doctor-assisted suicide bills introduced in states across the country. In large part, this is the result of Compassion & Choices' marketing of 29-year-old brain cancer patient Brittany Maynard, her heartbreaking story, and her family's ongoing grief after she took her own life on November 1, 2014, using Oregon's assisted-suicide law. Compassion & Choices (C&C), formerly the Hemlock Society, was able to use video tapes of the beautiful, charismatic, and articulate Maynard to beguile major media outlets, like CNN and *People Magazine*, to give unprecedented coverage to a movement that supporters claimed championed individual civil rights and the compassionate answer to terminal disease: doctor-prescribed suicide.

As C&C President Barbara Coombs Lee recently wrote in a letter to sup-

porters, "The movement to expand death with dignity has never been stronger or more vibrant than it is today." [C&C Appeal Letter, 4/29/15]

The emotional wave of empathy and support C&C was able to generate from Maynard's publicly anticipated assisted-suicide death was the impetus some legislators needed to sponsor Oregon-like bills in their own states. Since late 2014, when C&C launched Maynard's public relations campaign, legislators in 22 states have introduced new bills to legalize doctor-prescribed suicide.

California

But California was C&C's prime focus. Maynard lived in California, and, because that state over the years had rejected six assisted-suicide measures, Maynard and her family had moved to Oregon where the practice was legal. C&C had already launched a new legal-

ization campaign in the Golden State in July 2014 [C&C News, 7/3/14], but with Maynard as a spokesperson in October, the group could really zero in on the state.

In the weeks prior to her death, Maynard agreed to do a special video in which she pleads with California legislators to pass a bill to legalize doctor-assisted suicide. In it, she describes her tragic struggles and decisions after she was diagnosed with brain cancer and given only six months to live. "California law prevented me from getting the end of life option I deserved," she said. "The laws in California and 45 other states must change to prevent prolonged, involuntary suffering for all terminally ill Americans. As elected officials, you have the power to make this happen," she added. "Let the movement begin here, now."

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Canadian court upholds a patient's right to spoon-feeding

The Court of Appeals for British Columbia (BC) has upheld the 2014 BC Supreme Court decision denying the claims made by the family of 82-year-old Margo Bentley that the nursing home in which she resides should stop providing her all food and liquids by mouth. Bentley's husband and daughter argued that the advanced Alzheimer's patient had signed a "Statement of Wishes" in 1991 when she was competent that stipulated "no nourishment or liquids" should be provided if she had no chance of recovery.

Bentley, however, is not being force-fed. She opens her mouth when a spoon or glass touches her lip and swallows food. When she is full or doesn't want a certain food, she won't

open her mouth. The lower court judge ruled that Bentley is capable of deciding whether to eat or drink in the "here and now," and is consenting through her behavior.

On appeal, the family argued that the judge failed to declare that "prompting" Bentley to eat without her consent constituted "battery."

The appellate court upheld the lower court's ruling in its entirety. "It is a grave thing," the court ruled, "to ask or instruct caregivers to stand by and watch a patient starve to death. It should come as no surprise that a court of law will... give effect to the wishes of the patient in the 'here and now,' even in the face of prior directives...." [Bentley v. Maplewood, 2015 BCCA 91, 3/3/15] ■

2015 State Bills to Legalize Assisted Suicide (as of May 1)

State	Bill	History	Latest Committee	Status
AK	HB 99	Heard 2x in Health & Social Services	Health & Social Services	No action as yet
CA	SB 128	Passed Sen Health & Sen Judiciary	Senate Appropriations	Hearing 5/11/15
CO	HB 15-1135	Heard in House Judiciary	House Judiciary	Failed to pass
CT	HB 7015	Heard in Joint Judiciary	Joint Judiciary	Failed to pass
HI	HB 1255	Referred to 3 House Committees	Health, Consumer Protection, & Judiciary	No action as yet
IA	HF 65	Referred to Human Resources	Human Resources	No action as yet
KS	HB 2150	Referred to Health & Human Services	Health & Human Services	No action as yet
ME	SB 452	Referred to Health & Human Services	Health & Human Services	Hearing 5/15/15
MD	HB 1021 & SB 676	2 Hearings Held	Health, Government Operations, and Judiciary	Failed to pass
MA	H 1991	Referred to Public Health	Public Health	No action as yet
MN	SF 1880	Discussed in Health, Human Serv., & Housing	Health, Human Services, & Housing	No action as yet
MT	SB 202	Heard in Senate Judiciary	Senate Judiciary	Failed to pass
MO	HB 307	No hearing scheduled	Not referred to a committee	No action as yet
NV	SB 336	Referred to Health & Human Services	Health & Human Services	Failed without a hearing
NJ	A 2270 S 382	Passed Assembly Passed Sen Health	Senate Health Senate Health	Sen floor vote not scheduled
NY	A 2129 & S 3685	Referred to Health	Health	No action as yet
NC	H 611	Referred to Judiciary	Judiciary 1	Failed crossover to Senate
OK	HB 1673	Referred to Public Health	Public Health	No action as yet
PA	HB 943 & SB 549	Referred to each chamber's Judiciary	Judiciary	No action as yet
RI	HB 5507	Referred to Health, Education & Welfare	Health, Education, & Welfare	Tabled for further study
UT	HB 391	Referred to Health & Human Services	Health & Human Services	Tabled for further study
WA-DC	B21-0038	Referred to Health & Judiciary	Health & Human Services & Judiciary	No action as yet
WI	AB 67 & SB 28	Referred to each chamber's Health	Assembly Health & Senate Health & Human Services	No action as yet

Other State Bills Related to Assisted Suicide (as of May 1)

State	Bill	Purpose	History	In Committee	Status
AL	HB 496	To ban assisted suicide	Referred to House Judiciary	House Judiciary	No action as yet
MT	HB 328 HB 477	Both to criminalize assisted suicide	Heard: House Jud. Passed House	House Judiciary Senate Judiciary	Failed to pass Failed to pass
NC	S 646	To ban assisted suicide	Referred to Rules & Operations	Rules & Operations	Failed crossover to Senate
OR	HB 3337	To expand terminal definition to 1 year	Referred to House Health	House Health Care	Passage unlikely
VT	S 108	To repeal sunset provision in	Passed Full Senate	Full House	Passed

State prescribed-suicide bills, continued from page 1

Access to choice is in your hands. Freedom from prolonged pain and suffering is a most basic human right. Please make Death with Dignity an American health care choice." [Brittany Maynard, Legislative Testimony 2, California Senate Health Committee Hearing, 3/25/15]

The video was posthumously presented by Maynard's grieving husband—with her mother present—at a C&C press conference in the California State Capitol Building. The video's debut was scheduled an hour and half before SB 128, the assisted-suicide bill called "End of Life Option Act," was to have its first hearing in the Senate Health Committee on March 25. A written transcript of the video was presented to committee members at the hearing. SB 128 easily passed that day by a vote of 6 to 2. It also passed the Senate Judiciary on April 7 by a margin of 5 to 2. The bill is scheduled for an Appropriations Committee hearing and, if passed, will be debated by the full Senate.

Other targeted states

But so far this year, C&C and its partner group Death With Dignity National Center (DWDNC) have made little progress in other states. Legislators in 5 states (Colorado, Connecticut, Maryland, Montana, and Nevada) have outright rejected their respective prescribed-suicide bills, and lawmakers in 2 states (Rhode Island & Utah) have essentially killed their measures for the current legislative session by tabling them for future study. Bills in 12 states (Alaska, Hawaii, Iowa, Kansas, Massachusetts, Minnesota, Missouri, New York, North Carolina, Oklahoma, Pennsylvania, and Wisconsin) were initially referred to committees, but no hearings as yet have been scheduled or other actions taken. That is also true for the Washington, DC, measure. In Maine, one of the 2 remaining states, a first committee hearing has been set. In the other state, New Jersey, 2 companion bills that were reintroduced in February 2014 have made some progress. A 2270 was passed by the full Assembly last November, while the Senate version (S 382) currently awaits a vote by the full Senate, but none has been scheduled—likely due to a lack of support. But, even if it were to pass, Governor Chris Christie has said he opposes it.

Assisted-suicide related bills

In 3 states, bills to outlaw assisted suicide were introduced. Alabama's bill is pending in committee, North Carolina's failed the deadline to crossover to the Senate, and Montana's 2 bills were rejected in committees.

Two other states had measures to amend their permissive assisted-suicide laws. Oregon's HB 3337 would expand the qualification for prescribed suicide to patients with 12 months to live rather than the current 6-month restriction. In Vermont, both legislative houses passed a bill to repeal the present law's sunset clause, which would have removed many of the law's "safeguards" in 2016. ■



News briefs from home & abroad . . .

● **United States:** In April, the Employee Benefit Research Institute issued a report with some sobering facts about the end-of-life financial situation of US seniors. The findings included:

- For those who died at age 85 or older, 20.6% had no non-housing assets and 12.2% had no assets left at all. For single people who died at 85 or older, 24.6% had no non-housing assets left and 16.7% had no assets period.
- Those who died at a younger age were usually worse off financially. According to the data, 29.8% of households that had a 50 to 60 year-old member die had no assets left. These households also were left with significantly lower incomes than households with surviving members.
- Among singles who died at age 85 or above, 9.1% had outstanding debt aside from mortgage debt. The debt averaged about \$6,300. [EBRI, "A Look at the End-of-Life Financial Situation in America," April 2015]

Although the report does not connect this data with the question of legalizing doctor-prescribed suicide, the findings certainly justify the concern that, for many poor, elderly patients, an inexpensive assisted suicide will end up being—financially speaking—the only "choice" they (or others) think they have.

● **Canada:** It's been three months since the Canadian Supreme Court issued its sweeping ruling legalizing both euthanasia and assisted suicide. The Court gave the Federal Parliament and provincial legislatures 12 months to pass laws to establish guidelines and restrictions for the implementation of those death-inducing practices in accordance with the "constitutional parameters" set by the Court. [Carter v. Canada, 2015, SCC 5, Case No. 35591, 2/6/15]

Since a general election is scheduled for October and the House of Commons' term is due to end in June, the time to pass such laws within the Court's time frame is exceedingly

tight. The Liberal Party pushed for the creation of a special parliamentary committee to draw up outlines for the new law by mid-summer, while those opposed to such a law lobbied for the government to use the "notwithstanding clause" in the *Charter of Rights and Freedoms* to override the Supreme Court and keep euthanasia and assisted suicide illegal. So far, neither of those approaches have been successful. Justice Minister Peter MacKay did announce in April that the federal government will not be introducing new legislation before the October general election. [CTV News, 4/27/15] There is concern that the Federal government may allow the Court's ruling to take effect without a new law, leaving the country without any uniform regulations or guidelines. That's what happened when the Canadian Supreme Court legalized abortion in 1988.

Meanwhile, Canadian doctors are asking the government to clarify the Court's ruling regarding what doctors can and cannot do. The majority of palliative care doctors say they want no involvement with intentionally hastening a patient's death, while others, like Udo Schuklenk, bioethics professor at Queens University and editor-in-chief of the journal *Bioethics*, believe no doctor should have the right to conscientiously object to legally providing death to willing patients. [National Post, 2/23/15; Canadian Med. Assoc. Journal, 2/23/15; Udo Schuklenk's Ethx Blog, 3/26/15]

Also of grave concern is the country's broken health care system. A Nanos poll taken in February found that the majority (73%) of Canadians are concerned that they or a loved one will not get the health care support they need if they have a life-threatening illness. [London Free Press, 4/29/15] Moreover, it is estimated that there are no palliative care services available for 70% to 80% of Canadians. [Troy Media, 2/23/15] If you add euthanasia and assisted suicide practices to the lack of proper health care, assisted death

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becomes the only *effective* “treatment” option that suffering patients have.

- **Britain:** A recent British poll found that the fears regarding the National Health Service’s often reported insufficient care for patients at the end of life is fueling support for assisted-suicide legalization. More than one-third of the 4,000 people surveyed by YouGov said they support a change in law to allow doctor-prescribed suicide because they believe dying patients cannot expect to get “decent” care from the NHS, Britain’s socialized medicine program. [*Daily Telegraph*, 4/30/13] A bill to legalize “assisted dying” died in the House of Lords this year.
- **Scotland:** The Scottish Parliament’s Health and Sport Committee has released its report on the bill to legalize assisted suicide currently under consideration. The *Assisted Suicide (Scotland) Bill* was first introduced in 2013 by MSP Margo MacDonald, who died last year. The bill is now being carried by MSP Patrick Harvie. The committee concluded that the bill has “significant flaws” that “present major challenges as to whether the bill can be progressed.” Those flaws include an “unacceptable” lack of clarity in some of the language, the bill’s potential to undermine suicide prevention programs, its inability to prevent the coercion of a patient to request death, and its need to be significantly amended. While a majority of committee members oppose the bill in principle, they did not formally recommend that the bill be defeated but left it up to a conscience vote before the end of May. [BBC, 4/30/15; *Herald Scotland*, 4/30/15; PA, 4/30/15]
- **Belgium:** A new study, reported in the *New England Journal of Medicine (NEJM)*, found that the number of euthanasia deaths in Belgium has more than doubled since 2007, increasing from 1.9% of all deaths in 2007 to 4.6% in 2013. In Flanders, the northern region of Belgium, nearly one in 20 patients is being euthanized. The data indicate that Belgium has now surpassed the Netherlands in euthanasia deaths. Researchers from the universities of Ghent and Brussels attribute the drastic increase to patients being more accepting of euthanasia and doctors being more willing to provide it. The study also found that doctors are currently terminating the lives of over 1,000 patients a year *without* the patient’s request or knowledge. If you add all the deaths by terminal sedation (rendering the patient unconscious and withholding all food and water until the patient dies), lethal injection, and doctor-assisted suicide, Belgium’s induced death rate is a staggering 18% of the annual death toll. [*NEJM*, 3/17/15]

Commenting on this study, Wesley J. Smith, a Patients Rights Council consultant, wrote, “If the same percentages were applied to the United States, it would mean that roughly 150,000 would die yearly from euthanasia/assisted suicide (6% of 2.5 million annual USA deaths)

—and a whopping 450,000 when terminal sedation was included.” [Human Exceptionalism Blog, 3/17/15] Another commentator attributed the high number of involuntary euthanasia deaths in Belgium to “medical *paternalism*—an attitude that has been described as ‘a rather arrogant assumption that one knows best’ on the part of doctors.” [*Breitbart*, 4/12/15]

- **South Africa:** A Pretoria High Court judge has issued a landmark ruling granting a terminally-ill lawyer the right to obtain the help of a doctor to end his life. The lawyer, 65-year-old Robin Stransham-Ford with advanced prostate cancer, had petitioned the court to help him “die with dignity,” arguing that not being allowed to die by euthanasia or assisted suicide was a gross violation of his constitutional right to dignity. On April 30, Judge Hans Fabricius agreed, ruling that any doctor who directly helped Stransham-Ford die or provided him with the lethal drugs to kill himself would not face criminal charges or lose his or her medical license. The decision pertained only to Stransham-Ford, the judge said.

But unbeknownst to the judge, Stransham-Ford had died naturally and peacefully two hours before the ruling came down in court. On May 4, the Justice and Health Ministers, the National Prosecuting Authority, and Health Professions Council petitioned the judge to rescind his ruling since Stransham-Ford had died before the ruling and his rights no longer existed. The judge’s order was moot, they said. The judge refused. He said the ruling established a cause of action under common law that didn’t exist before, and it paved the way for others to approach the court and for the legislature to consider future legalization. An appeal of the ruling is expected. [*Times Live*, 4/21/15; BBC, 4/30/15; News 24, 4/30/15; Citizen, 5/4/15; IOL, 5/5/15] ■

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.

The *Update* is available to the general public; suggested minimum donation is \$25.00 [U.S.] a year. Add \$3.00 for foreign postage.

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