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# Update

## Canada forges ahead with the expansion of euthanasia law

**N**ever in recent history has a country so enthusiastically embraced euthanasia as Canada has. Incredibly, since the country's euthanasia law took effect just four years ago, there have been almost 7,000 euthanasia and assisted-suicide deaths. Now the Canadian government is working to expand the law to include more categories of killable patients: those with only mental disorders, those with dementia and other progressive illnesses affecting future capacity, and mature minors.

The push to expand the boundaries of the euthanasia law escalated last year after a Quebec Superior Court judge struck down restrictions as unconstitutional that were in both the federal medical assistance in dying (MAID) law and the Quebec MAID law. Those provisions required that qualified patients' natural deaths be "reasonably foreseeable" (federal law) and that patients must be at the "end of life" (Quebec law). The court ruled that those restrictions infringe on the life, liberty, and security of the person guaranteed in the Charter of Rights and Freedoms. The judge stayed her ruling for six months to allow legislators to amend the unconstitutional restrictions. Since neither the federal government nor Quebec appealed the ruling, both governments only have until March 11, 2020, to come up with an amended law. Without a near-death requirement, MAID eligibility is wide open for other than terminally ill patients.

Canada's MAID law faces a sweeping review this summer that will likely result in an amended law that includes expanded categories of euthanasia-eligible patients. The government set up an online survey in January ostensibly to explore what Canadian citizens thought about

the types of patients who should be eligible for MAID, but the government only kept the survey online for two weeks. As one commentator wrote, "Graduating high school students have more time to consider a university acceptance letter than Canadians were given to consider monumental social change fraught with moral complexity." [Ray Pennings, CBC News, 1/30/20]

### Forcing hospices to offer MAID

Another sign that euthanasia has been quickly normalized in Canada is the heavy-handed way some hospices are being forced to provide MAID for their patients. British Columbia's (BC's) Fraser Health Authority has told the Delta Hospice Society that it must provide an induced death if their patients ask for it or else their funding will be taken away. The Delta Hospice Society runs the small

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## Massachusetts court rules there's no right to assisted suicide

**M**assachusetts Superior Court Judge Mary K. Ames has ruled that the state's terminally ill patients do not have a constitutional right to physician-assisted suicide.

Stage 4 prostate cancer patient Dr. Roger Kligler and physician Dr. Alan Steinbach originally filed their lawsuit in 2016. They argued that medical aid in dying (MAID) is a fundamental right, that the state constitution and existing state laws do not prohibit MAID, that the death practice should not be considered manslaughter, and that prohibiting MAID violates the doctors' due process and equal protection rights. The two plaintiffs also requested an injunction barring state prosecution of doctors who provide patients with lethal drug overdoses.

Judge Ames, however, did not agree. In her ruling, she wrote, "None of the arguments

advanced in this action preclude the [state] from prosecuting physicians who prescribe lethal medication for purposes of Medical Aid in Dying...." The judge did uphold one of the plaintiffs' arguments that doctors can provide patients with assisted suicide information, including jurisdictions where it is legal. [*Kligler v. Healey*, Superior Court Civil Action, NO. 2016-03254-F, 12/31/19, at 23-24]

The assisted-suicide activist group Compassion & Choices (C&C) backed this lawsuit and said they will appeal Judge Ames' ruling. "We're disappointed that the court didn't rule in our favor," explained plaintiff Roger Kligler. "We're hoping that the appellate court or Supreme Judicial Court will."

Disability rights advocate John B. Kelly praised Judge Ames' decision. [Second Thoughts Press Release, 1/13/20] ■

## Overview: State legislatures to grapple with assisted-suicide measures in 2020

As is usually the case, the new year brought with it numerous new state measures to legalize doctor-prescribed suicide. As of February 12, 2020, eleven states (Arizona, Florida, Georgia, Iowa, Indiana, Kentucky, Maryland, New Hampshire, Rhode Island, Utah, and Virginia) have had bills introduced in 2020. In addition, six states (Delaware, Massachusetts, Minnesota, New York, Pennsylvania, and Wisconsin) have assisted-suicide bills that were introduced in 2019 but were carried over for consideration in the state’s 2020 legislative session. That makes a total of 17 states with measures that would turn the intentional ending of patients’ lives into a medical treatment. (See Table 1.) Most of the 17 states have a long history of being targeted by assisted-suicide activists for prescribed-suicide legalization. Only state lawmakers in Florida, Georgia, and Kentucky are formally considering the issue for the first time. In addition to measures to legalize prescribed death, New Jersey has a bill (A 577) that would repeal its assisted-suicide law that took effect last year.

### Expanding Oregon-style assisted-suicide bills

The legalization bills in the 17 states are modelled—more or less—after the Oregon Death with Dignity Act that went into effect in 1997. Most—but not all—require that an adult patient qualified for an assisted suicide be terminally ill with six months or less to live, be a resident of the state, be able to make an informed decision to have a drug-induced death, and make one written and two oral death requests with waiting periods between the requests. The written request signature must be verified by a notary or two witnesses, one of which cannot be an heir or in a position to benefit from the patient’s death. An attending physician and a consulting physician must agree that the patient is terminally ill, qualified for a prescribed lethal drug overdose, and is not being coerced to die. If either doctor thinks that the patient is not of sound mind and his or her judgment is affected, they can refer the patient for a psychiatric evaluation.

Prescribed-death supporters touted all those requirements (and more) as “necessary safeguards” against abuse in order to convince legislators or voters that assisted-suicide measures should be passed, and the resulting laws would be safe and abuse-free. Now that eight states and the District of Columbia have taken the bait and passed their respective assisted-suicide laws, supporters, feeling emboldened, are arguing that some of those “necessary safeguards” should be eliminated because they are actually “barriers” to a qualified patient’s right to a dignified death. Last year, Oregon streamlined its law by carving out an exemption to the “safeguard” waiting periods for patients who might die in 15 days or less, making it possible for those patients to receive their lethal drugs on the same day they first requested death. Pennsylvania’s current assisted-suicide bill (HB 2033) contains that same exemption.

Other current bills also take out perceived barriers to an assisted death. Kentucky’s bill (HB 224) eliminates the required prognosis of six-months or less to live from the definition of terminal illness, replacing it with the nebulous phrase “death within a relatively short time.” The Georgia bill (SB 291) changes the terminal illness definition to simply “an incurable and irreversible illness that will, within reasonable medical judgment, result in death.” There are many common conditions (diabetes, for one) that could result in death or shorten life but not until the patient has lived many years or even decades. Incredibly, the authors of Minnesota’s bill (HF 2152) have removed one of the most important requirements: witnesses to the patient’s signature on the written death request form. Without the witnesses or notary present, there is no way to know that the patient—and not someone else with ulterior motives—signed the document.

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Introduced in 2020			Carried Over from 2019		
State	Bill	Introduced	State	Bill	Introduced
AZ	HB 2582 SB 1384	1/17/20 1/29/20	DE	HB 140	5/2/19
FL	SB 1800	1/10/20	MA	H 1926 S 1208	1/8/19 1/14/19
GA	SB 291	1/14/20	MN	HF 2152 SF 2286 SF 2487	3/7/19 3/11/19 3/14/19
IA	HF 2302 SF 175	2/10/20 2/4/20	NY	A30 (Study) A 2694 S 3947	1/9/19 1/25/19 1/8/19
IN	HB 1020	1/7/20	PA	HB 2033	11/4/19
KY	HB 224	1/13/20	WI	AB 522 SB499	10/18/19 10/10/19
MD	HB 643 SB 701	1/29/20 2/3/20			
NH	HB 1659	1/8/20			
RI	H 7369	1/30/20			
UT	HB 93	1/16/20			
VA*	HB 1649*	1/16/20			

\*On 2/7/20, Virginia’s HB 1649 was continued to 2021 by a voice vote in the Courts of Justice Committee.

State	Bill	Introduced	Bill’s Purpose
HI	SB 542	1/18/19	To remove barriers to assisted-suicide access by mandating drug costs reimbursement & penalizing pharmacies & pharmacists who refuse to fill lethal prescriptions.
HI	SB 2582	1/17/20	To allow nurse practitioners & other advance practice RNs to practice assisted suicide; to reduce and, in some cases, eliminate waiting periods.
WA	HB 2326	1/9/20	To require every hospital to submit to the state Dept. of Health its assisted-suicide & end-of-life care policies and post them for the public.
WA	HB 2419	1/4/20	To have the U of WA conduct a study on any “barriers” to “full access” to assisted-suicide services for qualified patients and report findings to the governor and legislature so the existing law can be amended.



## Pushing Assisted Suicide for Baby Boomers

By Wesley J. Smith

We can always count on the *New York Times* to promote destructive public policies and social agendas. In the latest example, the “paper of record” published a piece that pushes assisted suicide as a solution to the significant challenges we will face from Baby Boomers getting old.

First, Susan Jacoby recounts the familiar costs and predicted problems associated with increasing numbers of elderly people. But when the time comes to suggest solutions, the piece is very weak. Her inner feminist rails at “A Place for Mom” ads because it implies women will be taking care of “dad.” That just will not do. She also suggests that the elderly who want to work be accommodated by companies and policies to stay productive. A-okay with me.

Then, she gets to the true point of her piece; a call to “create a better reality for the old and their families” by opening the door to legally killing the old birds. From, “We’re Getting Old, but We’re Not Doing Anything About It” [*NYT*, 12/23/19]:

A healthier attitude toward aging also means examining moral issues. Physician-assisted suicide, for example, is the source of a fierce ethical debate that matters greatly to anyone who can imagine growing old. Questions about the end of life, like those about abortion, should be posed in every national forum.

How would allowing old people to be assisted in suicide promote “a healthier attitude toward aging?” To the contrary, it would denigrate the elderly by transforming them into a killable caste when they need care.

Back to Jacoby:

According to a Gallup poll conducted last year, 72 percent of Americans agree that doctors should be allowed to help end a patient’s life painlessly if there is no hope of a cure and the medical assistance is requested by patients and their families. The support

drops to 65 percent if the phrase “doctor-assisted suicide” is used instead of “end a patient’s life”—yet another case of the American preference for euphemism.

Jacoby’s piece is a thinly veiled call for the normalization of elder suicide, perhaps even the creation of a societal expectation that the dependent old “choose” to die in order not to “burden” their families and society. And be very clear: “No hope for cure,” is far broader than a diagnosis of imminent death from a terminal illness—and indeed, could include many common conditions of old age, from early Alzheimer’s, to speech difficulties caused by stroke, to a broken hip leading to morbidity, to loss of vision or hearing.

As for family participation in the decision to die, has Jacoby never heard of the elder abuse crisis? That point aside, *no law in the world* requires that families request euthanasia along with the patient. Indeed, families are kept in the dark because of privacy issues, and even when they learn of the death plans, they are powerless to stop it—as we saw in a case in Canada in which family members begged doctors not to kill their depressed loved one, to no avail. [*National Review*, 9/26/19]

Jacoby’s column—published in the most influential op-ed page in the world—reveals how legalized assisted suicide could become a means of scouring society of dependent and expensive-to-care-for elderly, described by Jacoby as those who “live long but not necessarily healthy lives.” Kind of gives the ageist meme, “#OKBoomer,” a whole new meaning, doesn’t it? ■

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### Measures to expand existing laws

In Hawaii and Washington, two states that have already passed assisted-suicide laws, bills have been introduced that would likely expand those laws by removing or amending perceived “barriers” to patients’ full access to prescribed-death services. (See Table 2 on p. 2.) Hawaii’s SB 542 categorizes lethal drug costs as a financial barrier that must be reimbursed as a “medically necessary covered service,” whether or not the qualifying patient has prescription drug coverage. The bill also penalizes any pharmacist and pharmacy for refusing to dispense lethal drugs to qualified patients. Ha-

waii’s second bill (SB 2582) would authorize advance practice nurses to facilitate assisted-suicides and prescribe intentionally fatal drug overdoses. Also, waiting periods would be eliminated for some patients.

Washington State’s bill (HB 2419) authorizes the University of Washington to conduct a study to identify any barrier to “full access” to assisted suicide that state residents encounter. The university would be required to submit the study’s findings to the governor and the legislature so the existing assisted-suicide law can be amended to eliminate those barriers (formerly safeguards). ■



## News briefs from home & abroad . . .

- **Hawaii & Vermont:** Recently, two states that have legalized doctor-assisted suicide issued their latest statistical reports on the deaths that have been reported to the state by the prescribing doctors. Both reports contain such little data that one could seriously question whether each state's death law oversight is sufficient for the state to maintain its primary role as the public's protector.

The Hawaii law—called the Our Care, Our Choice Act (OCOCA)—went into effect on January 1, 2019. According to the latest report, 27 qualified patients received prescriptions for lethal drugs. Of those, 19 patients died: 14 died after ingesting the lethal drugs and 5 did not take the drugs and died. Twelve (12) attending physicians wrote the fatal drug prescriptions for the 27 qualified patients. There were no drug complications reported. [Report to the 13<sup>th</sup> Legislature, State of Hawaii, December 2019]

Vermont's law—dubbed the Patient Choice at the End of Life Act—took effect in 2013. The latest Vermont assisted-suicide report is even skimpier than Hawaii's. Between July 1, 2017 and June 30, 2019, 34 patients received prescriptions for lethal drugs. Of those, 28 ingested the drugs and died, 5 died from their underlying conditions, and 1 patient's status is unknown. [Report Concerning Patient Choice at the End of Life, January 15, 2020]

- **The Netherlands:** A study sponsored by the Dutch government has found that more than 10,000 otherwise healthy people over the age of 55 want to die. Health Minister Hugo de Jonge reported the study's findings to members of the Dutch House of Representatives and said, "There is no doubt that the results show this is a major social issue both for this government and for society." De Jonge, a Christian Democrat MP, explained that the study underscores the need for action and the government must do everything it can to "help these people find meaning in life again." But Pia Dijkstra, a rival MP for the D66 party, announced that she would introduce a "completed life" bill in February that would allow anyone over 75—even if they are healthy with no unbearable suffering—to be euthanized. De Jonge argued that broadening the euthanasia law or creating new rules is not the answer for those with death wishes. ChristenUnie MP Carla Dik-Faber agreed with de Jonge. "Making a suicide pill available would be the most cynical response to people with a death wish," she explained. "We would be giving up on them instead of wanting to be there for them." [DutchNews.nl, 1/30/20]

- **Belgium:** In a landmark euthanasia case, three Belgian doctors were prosecuted for poisoning to death 38-year-old Tine Nys in 2010. Nys wanted to die. She had suffered from depression and heroin addiction and had attempted suicide several times. Just prior to her death, she was diagnosed with autism. Nys' first euthanasia request was denied by her personal doctor, but she found two willing doctors at a euthanasia clinic. Nys' family argued that she was not incurably ill as required by the law. Instead, she was depressed after a failed relationship. They also charged that the doctors didn't even try to treat her autism and depression before they approved her euthanasia. But a 12-member jury disagreed with the family's claims and acquitted all three doctors. [NY Times, 1/31/20; BioEdge, 2/1/20] ■

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ten-bed Irene Thomas Hospice in Ladner, BC, a suburb of Vancouver. Fraser Health gave the Delta Hospice Society until February 3, 2020, to comply with the MAID mandate or it will lose its provincial funding. Delta receives \$1.4 million from the province but offered to give back \$750,000 so that the hospice would fall below BC's 50% funding threshold. By doing so, the hospice can opt out of the MAID mandate. So far, there has been no response from Fraser Health on Delta's offer, and the health authority has taken no action regarding its expired February deadline.

Delta and its hospice are not faith-based. They object to providing MAID because killing patients goes against the foundational principles of hospice. "We have bylaws and within that it says we do not hasten death, we are a palliative care organization, and we do everything we can to improve the time that the person has left," explained Angelina Ireland, Delta Hospice Society's board president. Ireland said the Fraser CEO and a VP told her, "No, we don't care." "They're coming in with a hammer and it's boom—or else," she added. [Delta-Optimist, 2/2/20]

The Nipissing Serenity Hospice in North Bay, Ontario, is also being pressured to offer MAID. Like the BC hospice, the Nipissing hospice is not faith-based and holds to hospice principles against hastening death. [Nugget News, 1/27/20] ■

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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