Recent Developments in Physician-Assisted Suicide

November 2000

LITIGATION

1. *Sampson v. Alaska*, No. 3AN-98-11288CI (Alaska Super. Ct.), appeal pending, No. S9338 (Alaska Sup. Ct.).On 12/15/98, Kevin Sampson (a 43-year-old HIV-positive man) and "Jane Doe" (a female physician in her 60's with cancer) filed suit in Alaska Superior Court in Anchorage challenging Alaska's ban on physician-assisted suicide based on state constitutional claims of privacy, liberty, and equal protection. On 9/9/99, Judge Eric T. Sanders issued a written opinion rejecting the plaintiffs' claims and granting summary judgment to the defendant. Argument on the appeal was heard on 11/14/00 before the Alaska Supreme Court.

2. *Cooley v. Granholm*, No. 99-CV-75484 (E.D. Mich.). On 11/12/99, Professor Robert Sedler filed a federal lawsuit against Attorney General Jennifer Granholm and the Michigan Board of Medicine on behalf of two Michigan physicians, Roy Cooley and M.W. El-Nachef. The suit claims that Michigan's ban on assisted suicide violates the Fourteenth Amendment right "to be relieved from unbearable pain and suffering." A hearing on the defendants' motion for summary judgment was held on 11/8/00 before Judge Nancy G. Edmunds.

3. *Sanderson v. People*, No. 99CA0203, 2000 WL 729008 (Colo.App. Jun. 8, 2000), appeal pending, No. 00SC582 (Colo. Sup. Ct.). In February 1996, retired state trial court judge Robert Sanderson filed a petition asking the Prowers County District Court for authority to execute a power of attorney authorizing his wife to have a physician end his life by lethal injection, provided that two physicians agree his medical condition is hopeless. Sanderson asserted claims under the First, Fourth, Fifth, Sixth, Ninth, and Fourteenth Amendments to the United States Constitution. In December 1998, Judge Norman Arends dismissed the lawsuit for failure to state a claim. Sanderson appealed, raising only his First Amendment claim that Colorado's statute criminalizing assisted suicide interfered with his religious belief in "free will" and therefore violated his rights under the Free Exercise Clause. On 6/8/00, the Colorado Court of Appeals affirmed the trial court's dismissal, finding that Colorado's assisted suicide statute "is a valid, religiously-neutral, and generally-applicable criminal statute that prohibits conduct a state is free to regulate." On 7/18/00, Sanderson appealed the case to the Colorado Supreme Court.

LEGISLATION

1. Alabama. In February 2000, the Alabama Senate passed Senate Bill 8, which would have made assisted suicide a Class C felony punishable by up to 10 years in prison. However, the bill died in the Alabama House.

2. Maine. On 11/7/00, Maine voters defeated the proposed Maine Death with Dignity Act, which generally was patterned after the Oregon Death with Dignity Act. As of 11/9/00, with 99% of precincts reporting, the vote was 330,671 (51.3%) against and 313,303 (48.7%) for the measure.

    a. Poll results. Several telephone polls of about 400 Maine voters conducted in May, August, and September 2000 showed that between 62% and 71% favored the ballot measure. A September poll by Strategic Marketing Services of Portland showed support of the measure at 62% and opposition at 26%, with nearly 10% undecided and 2% not planning to vote. Another September poll conducted by RKM Research and Communication, Inc. for commercial and public television stations and the Bangor Daily

News showed support at 66% and opposition at 22%, with 12% undecided. However, two polls conducted later in October showed that support of the ballot measure had fallen to 54% and 52%, respectively.

b. Campaign groups. Mainers for Death with Dignity organized the initiative and campaigned for its approval. Opposition groups included the Catholic Diocese of Portland, the Coalition for the Compassionate Care of the Dying, and Maine Citizens Against the Dangers of Physician-Assisted Suicide (a coalition including the Maine Medical Association, the Maine Hospice Council, the Organization of Maine Nursing Executives, and Alpha One disability advocacy group). According to campaign spending reports filed on 10/10/00, supporters and opponents had each raised over $1 million in contributions; the Catholic Diocese had contributed $275,000. The Catholic church also distributed videos and pamphlets warning that the proposed law was "filled with loopholes" and "fatally flawed"; approximately one-quarter of Maine voters are Catholics.

c. Television advertisements. A television advertisement by groups opposing the Maine Death with Dignity Act depicted Dr. Thomas Reardon, an Oregon physician who has opposed the Oregon Death with Dignity Act as president of the American Medical Association. The advertisement claimed that Oregon patients attempting physician-assisted suicide ended up in hospital emergency rooms, and made other claims that supporters of the Maine initiative said were misleading. In response, the Act's supporters aired a television advertisement by Oregon's Governor John Kitzhaber, an emergency room physician, who said that the original advertisement was inaccurate. A second television advertisement by the Act's opponents, which suggested that HMOs would pressure Maine residents into physician-assisted suicide, was rejected by four major television stations for being factually unsupported.

3. Maryland. On 9/15/00, Arundel County Circuit Court Judge Pamela North found a 16-year-old boy guilty of assisting in the suicide of his 15-year-old girlfriend, Jennifer Garvey, by giving her a gun she used to kill herself as part of a suicide pact. Under Maryland's assisted suicide law, adopted in 1999, assisting a suicide is a felony punishable by up to one year in prison and a $10,000 fine, but Judge North ruled that the boy was not criminally responsible for his actions because he suffered from severe depression. Maryland legislators William H. Cole and Sharon Grosfeld had introduced a bill limiting prosecution under the assisted suicide law to adults, but the 2000 legislature rejected the proposed changes.

4. Federal legislation

a. Pain Relief Promotion Act introduced. On 6/17/99, Senator Don Nickles and Representative Henry Hyde introduced the Pain Relief Promotion Act of 1999 (HR 2260/SB 1272), which would (1) amend the federal Controlled Substances Act to prohibit the "intentional dispensing, distributing, or administering of a controlled substance" for purposes of assisted suicide or euthanasia, (2) instruct the Attorney General to "give no force and effect to State law authorizing or permitting assisted suicide or euthanasia," and (3) establish research, educational, and training programs on pain management and palliative care.

b. House of Representatives. On 10/27/99, the House of Representatives passed HR 2260 by a vote of 271 to 156.

c. Senate Judiciary Committee. On arrival in the Senate, the Senate parliamentarian referred HR 2260 "by mistake" to the Senate Judiciary Committee (chaired by Senator Orrin Hatch, who opposes assisted suicide). Senate Jim Jeffords, a moderate Republican from Vermont, objected unsuccessfully to the departure from normal Senate procedure, which would have assigned the bill to the Health, Education, Labor and Pensions Committee which he chairs. On 4/25/00, in response to requests from Oregon's two Senators, the Judiciary Committee held a hearing on HR 2260. On 4/27/00, the committee approved an amended version of the bill by a vote of 10 to 8. The amendments included changing the bill's name to the "Pain Relief Promotion Act of 2000," confirming that the states would retain the sole authority to regulate the practice of medicine, and imposing on the Attorney General the burden of proving the practitioner's intent by clear and convincing evidence.

d. Further Senate action. Until late September 2000, it appeared likely that the Pain Relief Promotion Act would reach the Senate floor, where Senator Nickles would have the votes necessary to end a threatened filibuster by Oregon Senator Ron Wyden and obtain approval of the bill. By early October, however, the bill lost a number of Democratic supporters due to Senator Wyden's efforts and to concerns raised by the American Bar Association, the American Cancer Society, various medical groups, and newspaper editorials. After Senator Nickles tried unsuccessfully to bring the bill to a vote through several procedural maneuvers, he had the bill attached to a 10-year, $240 billion tax cut plan that was approved by the House on 10/26/00 by a vote of 237 to 174. The legislation arrived in the Senate on 10/27/00, provoking a

two-hour debate between Senator Nickles and Senator Wyden. After Senator Wyden indicated his intention to filibuster, Senate Majority Leader Trent Lott withdrew the bill pending further negotiations with President Clinton. On 11/1/00, the Senate adjourned until 11/14/00 without voting on the bill.

e. Potential for veto. President Clinton's position is not clear. Although the President does not favor assisted suicide, an Attorney General's opinion issued by the Department of Justice in October 1999 opposed the Pain Relief Promotion Act on two grounds: (1) physician-assisted suicide would become a federal crime that could potentially subject a physician to a mandatory 20-year criminal sentence and (2) the federal government would be deciding policy questions more appropriately left to the individual states. President Clinton has threatened to veto the tax cut legislation for reasons unrelated to the Pain Relief Promotion Act but has not indicated that he would veto a compromise tax relief package containing the Act. Overriding a Presidential veto requires a 2/3 vote in Congress.

f. Position of candidates. Democratic Vice Presidential candidate Joe Lieberman is a chief sponsor of the Pain Relief Promotion Act. Both candidates for President oppose physician-assisted suicide, but only George Bush has stated clearly that he would approve the proposed legislation.

g. Likely court challenges. If the Pain Relief Promotion Act passes, Oregon's Attorney General, as well as private parties such as physicians and patients, are expected to file suit in federal court. The plaintiffs' claims are likely to include violation of states' rights under the Tenth Amendment, an argument that has been strengthened by recent decisions of the United States Supreme Court regarding the limits on Congress' power to regulate interstate commerce.

OTHER NATIONAL DEVELOPMENTS

1. Dr. Jack Kevorkian

   a. Pending appeal. On 3/26/99, Dr. Jack Kevorkian was convicted by a jury of second-degree murder and illegal delivery of a controlled substance in connection with the death of Thomas Youk by lethal injection. Kevorkian will not be eligible for parole until May 2007. On 11/12/99, Kevorkian's lawyer Mayer Morganroth filed an appeal with the Michigan Court of Appeals to reverse Kevorkian's conviction and dismiss the case or order a new trial. Grounds for appeal include a Fifth Amendment claim that a prosecutor improperly referred to Kevorkian's failure to testify, a Ninth Amendment claim of a patient's right to physician assistance in dying, and a claim of ineffective assistance of counsel. On 8/24/00, Oakland County Circuit Court Judge Jessica Cooper denied Kevorkian's request that he be freed on bond for health reasons.

   b. ABC suit against Department of Corrections. On 7/13/00, Genesee County Circuit Court Judge Robert Ransom ordered Michigan Department of Corrections director Bill Martin and deputy director Dan Bolden to permit ABC's Barbara Walters to conduct a face-to-face interview with Dr. Kevorkian for the television program "20/20." ABC claimed that the defendants had arbitrarily and unconstitutionally applied a new policy barring cameras and recording devices in the state's 39 prisons. After the Michigan Court of Appeals blocked the lower court order on 7/28/00, ABC's attorney indicated that the network may seek an expedited appeal.

2. Utah physician convicted of manslaughter and negligent homicide. On 7/10/00, a jury found psychiatrist Dr. Robert Weitzel guilty of two counts of second-degree felony manslaughter and three counts of misdemeanor negligent homicide in connection with the deaths of five elderly patients at the geriatric psychiatric unit of the Davis Hospital and Medical Center in Layton, Utah, during a 16-day period from late 1995 to early 1996. The jury acquitted Weitzel of murder charges. Prosecutors contended that all five patients were admitted for dementia, not for life-threatening diseases, and that Weitzel killed them with lethal doses of morphine, while the defense contended that Weitzel merely provided comfort care. On 9/8/00, Judge Thomas Kay sentenced Weitzel to serve two concurrent terms of up to 15 years on the manslaughter convictions and three concurrent terms of up to one year on the negligent homicide convictions. Weitzel has filed a motion for a new trial, claiming that prosecutors failed to disclose information from a potential expert witness and that a member of the jury failed to disclose knowledge about the case. Family members of one of the patients have filed a civil lawsuit against Weitzel, and his Utah medical license has been suspended.

3. Mediated dialogue in Colorado. Between April 1999 and January 2000, CDR Associates (a Boulder public policy

mediation firm) and Health Outcomes (a Boulder consulting firm) convened a diverse group of Colorado leaders to discuss end-of-life issues, including physician-assisted suicide. Participants included health-care providers, academics, representatives of religious institutions, health-industry administrators, government officials, and the Hemlock Society. The group agreed upon the following joint statement: "We agree that poor end-of-life care should never be a reason that a dying person would seek assistance in dying." Participants endorsed 13 changes that need to be made within the health-care system and in society to remove barriers to good end-of-life care, including placing much greater emphasis on relieving pain and suffering and orienting the health-care system more to the emotional, psychological, and spiritual needs of patients.

4. World conference on assisted dying. Hemlock Society USA hosted the World Conference on Assisted Dying September 1-3, 2000, in Boston. The conference attracted about 500 people from 22 countries and sparked a two-day protest by members of the disabled-rights group Not Dead Yet.

5. Public television series on dying. On September 10-13, 2000, public television broadcast a four-part series called "On Our Own Terms: Moyers on Dying," produced by a team of award-winning journalists led by Bill and Judith Davidson Moyers. The series reached an estimated 19 million Americans. The 9/18/00 issue of Time magazine devoted the cover and 14 pages to end-of-life issues; a Time/CNN poll showed that 70% of Americans want to die at home and that 55% of those over age 65 now have an advance medical directive. Further information about the series and resulting community education efforts can be found at http://www.pbs.org/onourownterms.

6. Poll of Protestant ministers. A poll by Ellison Research of Phoenix of 518 Protestant ministers in all 50 states, which was released in September 2000, showed that 69% strongly opposed physician-assisted suicide, while 7% were strongly in favor and 10% somewhat in favor.

MEDICAL DEVELOPMENTS

1. New pain standards. In August 1999, the Joint Commission on Accreditation of Healthcare Organizations adopted new standards on pain management that will go into effect on 1/1/01. In May 2000, nearly 400 health care professionals attended a summit on the new standards in Chicago, which was sponsored by Joint Commission Resources (a JCAHO subsidiary) and the American Pain Society. A second summit was held in July in Los Angeles. The American Pain Foundation plans a "Stop Pain Now!" campaign beginning in fall 2000 to publicize the pain standards and encourage hospitals and other institutions to adopt a pain patients' bill of rights.

2. "Circle of Life" awards. The Robert Wood Johnson Foundation, the American Hospital Association, the American Medical Association, the National Hospice and Palliative Care Organization, and the American Association of Homes and Services for the Aging are co-sponsoring a "Circle of Life" award to bring attention to innovations in end-of-life care. First recipients of the $25,000 award, announced in May 2000, were the Franciscan Health System in Tacoma, Washington; the Hospice of the Florida Suncoast in Largo, Florida; and the Louisiana State Penitentiary Hospice in Angola, Louisiana.

3. Hospice brochures. The National Hospice and Palliative Care Organization has created a series of consumer brochures--*Communicating Your End-of-Life Wishes*, *Hospice Care: A Consumer's Guide to Selecting a Program*, and *Hospice Care and the Medicare Hospice Benefit*--that can be ordered at http://www.nhpco.org.

4. Play used to educate medical students. Dr. Kenneth Rosenfeld, associate professor of medicine at UCLA, and Dr. Karl Lorenz, a fellow in general internal medicine at the Veterans Administration Greater Los Angeles Healthcare System, received a $250,000 grant from the Fan Fox and Lesley R. Samuels Foundation in New York to fund special educational performances of Margaret Edson's Pulitzer Prize-winning play "Wit" for medical students and residents across the country. The play tells the story of Vivian Bearing, a 50-year-old literature professor with terminal ovarian cancer who agrees to undergo treatment in a research project at a major teaching hospital. Performances are scheduled at more than 30 medical schools and teaching hospitals over an 18-month period.

5. American Medical Students Association award. The American Medical Students Association has announced plans to evaluate American medical schools' end-of-life/palliative care curriculums by honoring the most innovative with AMSA's prestigious Paul R. Wright Award for Excellence in Medical Education. The recipient will be announced at AMSA's annual meeting in March 2001.

6. Recent articles

   a. Aida Won et al., *Correlates and Management on Nonmalignant Pain in the Nursing Home* , 47 J. Am. Geriatrics Soc'y 936 (1999) [researchers from the United States and Italy examined information about 49,971 nursing home residents in four states during 1992-95; 26.3% of residents experienced nonmalignant pain daily, 25% of persons with daily pain received no pain relievers, and residents who received no pain relievers were more likely to be older than age 85, cognitively impaired, male, or a racial minority; persons suffering daily pain were more likely to have impairment in activities of daily living, mood disorders, and decreased involvement in activities].

   b. Cathy S. Berkman et al., *Attitudes Toward Physician-Assisted Suicide Among Persons with Multiple Sclerosis*, 2 J. Palliative Med. 51 (1999) [questionnaire mailed in January 1997 to 511 individuals with multiple sclerosis in Oregon and Michigan showed that about one-third had thought about physician-assisted suicide as an option and that one-half to one-quarter would consider assisted suicide in hypothetical circumstances involving unbearable pain, being unable to do things that made them happy, a financial burden to caregivers or family members, or extreme emotional distress].

   c. Linda Ganzini et al., *Evaluation of Competence to Consent to Assisted Suicide: Views of Forensic Psychiatrists*, 157 Am. J. Psychiatry 595 (2000) [1997 questionnaire completed by 456 forensic psychiatrists nationwide showed that 66% believed that physician-assisted suicide was ethical in some circumstances and 63% that it should be legalized for competent persons; of respondents who believed that physician-assisted suicide could be ethical, 45% thought that a psychiatric evaluation should be required in all cases, 29% required in some cases, and 17% recommended but not required; a majority would find a patient competent only after an evaluation by two independent examiners, followed by judicial or local administrative review and requiring clear and convincing proof].

   d. R. Sean Morrison et al., *"We Don't Carry That"--Failure of Pharmacies in Predominantly Nonwhite Neighborhoods to Stock Opioid Analgesics*, 342 New Eng. J. Med. 1023 (2000) [survey of 347 New York City pharmacies showed that 51% did not have sufficient supplies of opioids to treat patients with severe pain; only 25% of pharmacies in predominantly nonwhite neighborhoods had sufficient supplies, as compared with 72% in predominantly white neighborhoods].

   e. Sharon M. Weinstein et al, *Medical Students' Attitudes Toward Pain and the Use of Opioid Analgesics: Implications for Changing Medical School Curriculum*, 93 S. Med. J. 472 (2000) [survey of a medical school class during their freshman and senior years showed that seniors were less reluctant to prescribe opioids, less fearful of patient addiction, and less fearful of investigation by drug regulatory agencies, but that more than half of seniors still believed that addiction risks are substantial and more than one-third were concerned about investigations; consistent attitudes were found in seniors with preferences for certain specialty areas].

   f. Sharon M. Weinstein, *Physicians' Attitudes Toward Pain and the Use of Opioid Analgesics*, 93 S. Med. J. 479 (2000) [59-item survey was used to measure attitudes, knowledge, and psychologic factors that contributed to pain management practices among 386 physicians practicing in Texas during 1994; a significant number of physicians revealed prejudice against the use of opioid analgesics, lack of knowledge about pain and its treatment, and negative views about patients with chronic pain; psychiatrists had the most positive attitude about patients with chronic pain and were the least reluctant to prescribe opioids and least fearful of addition risk, while surgeons and anesthesiologists were the most reluctant to prescribe opioids for pain and were the most fearful of scrutiny by drug regulatory agencies].

   g. David C. McGee et al., *Editorial: The Patient's Response to Medical Futility*, 160 Archives Internal Med. 1565 (2000), and J. Randall Curtis et al., *The Attitudes of Patients with Advanced AIDS Toward Use of the Medical Futility Rationale in Decisions to Forgo Mechanical Ventilation*, 160 Archives Internal Med. 1597 (2000) [in interviews of 57 patients with advanced AIDS in Seattle, Washington, 61% of patients said that it would definitely be acceptable for their physicians to withhold futile life support such as mechanical ventilation if the patient had less than three months to live and had developed severe pneumonia, 26% said that it would probably be acceptable, and 10% said that it would definitely be unacceptable].

   h. J. Randall Curtis et al., *Why Don't Patients and Physicians Talk About End-of-Life Care? Barriers to Communication for Patients with Acquired Immunodeficiency Syndrome and Their Primary Care*

Physicians, 160 Archives Internal Med. 1690 (2000) [interviews of 57 patients with advanced AIDS and their physicians in Seattle, Washington, identified barriers to end-of-life communication and assessed the potential usefulness of three categories of potential interventions: education about end-of-life care, counseling to help address end-of-life concerns, and health care system changes to facilitate patient-clinician communication].

i. Rebekah Schiff et al., *Views of Elderly People on Living Wills: Interview Study*, 320 Brit. Med. J. 1640 (2000) [74 medical inpatients over age 65 at two hospitals in London answered questionnaire administered by interviewer; 82% had not heard of advance medical directives, and most who had heard of living wills did not correctly define them; 80% chose relatives as a health care proxy; participants stated that in many situations they preferred comfort care only, even if they might die, to active treatment, with advanced dementia being most feared (by 78%)].

j. Susan W. Tolle et al., *Family Reports of Pain in Dying Hospitalized Patients: A Structured Telephone Survey*, 172 W. J. Med. 374 (2000) [published results of Oregon survey summarized in June 2000 "Recent Developments" report].

k. R. Sean Morrison & Albert L. Siu, *Survival in End-Stage Dementia Following Acute Illness*, 284 JAMA 47 (2000), and Don Reisenberg, *Hospital Care of Patients with Dementia*, 284 JAMA 87 (2000) [researchers studied 216 patients aged 70 or older who were hospitalized with pneumonia or hip fracture in a large New York hospital from September 1996 to March 1998; patients with end-stage dementia were over four times as likely to die within six months as patients without dementia (53% versus 13% for pneumonia patients and 55% versus 12% for hip fracture patients), but nevertheless received the same degree of invasive medical treatments; only 24% of dementia patients had a standing order for pain medication].

l. American Academy of Pediatrics Committee on Bioethics and Committee on Hospital Care, *Palliative Care for Children*, 106 Pediatrics 351 (2000) [American Academy of Pediatrics recommends development and broad availability of pediatric palliative care services based on child-specific guidelines and standards; Academy offers guidance on responding to requests for hastening death but does not support the practice of physician-assisted suicide or euthanasia for children].

m. Keith G. Wilson et al., *Attitudes of Terminally Ill Patients Toward Euthanasia and Physician-Assisted Suicide*, 160 Archives Internal Med. 2454 (2000) [73% of 70 Canadian patients receiving palliative care for advanced cancer believed that euthanasia or physician-assisted suicide should be legalized, citing pain and the individual's right to choose as their major reasons; 58% also believed that, if legal, they might personally make a future request for a hastened death; the 12% of patients who would have made such a request at the time of the interview had greater loss of interest in activities, hopelessness, desire to die, and prevalence of depressive disorders than other patients, but did not differ on ratings of pain severity; patients who were against legalization of euthanasia or physician-assisted suicide were motivated primarily by religious or secular moral concerns].

n. Lewis M. Cohen et al., *Dying Well After Discontinuing the Life-Support Treatment of Dialysis*, 160 Archives Internal Med. 2513 (2000) [in study of 79 patients in eight dialysis clinics in the United States and Canada, 38% had very good deaths (pain-free, peaceful, and brief) after dialysis ceased, 47% had good deaths, and 15% had bad deaths; during the last day of life, 81% did not suffer, although 42% had some pain and an additional 5% had severe pain; patients who died at home or with hospice care had better deaths than those who died in a hospital or nursing home].

o. Ezekiel J. Emanuel et al., *Attitudes and Practices of U.S. Oncologists Regarding Euthanasia and Physician-Assisted Suicide*, 133 Annals Internal Med. 527 (2000). A 1998 survey of 3,299 oncologists who were members of the American Society of Clinical Oncology showed that:

> (1) 22.5% supported the use of physician-assisted suicide for a terminally ill patient with prostate cancer who had unremitting pain despite optimal pain management, and 16% supported euthanasia.
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> (2) 15.6% would be willing to provide physician-assisted suicide, and 2.0% would be willing to carry out euthanasia.
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> (3) Four factors were associated with oncologists' opposition to physician-assisted suicide and euthanasia: (1) reluctance to increase the intravenous morphine dose for a patient with metastatic breast cancer who was experiencing pain and requested relief, (2)

reporting that they had sufficient time to talk to dying patients about end-of-life care issues, (3) viewing themselves as religious, and (4) being Catholic.

(4) 62.9% had received requests for physician-assisted suicide or euthanasia during their career, and 31.1% had received such requests in the preceding 12 months.

(5) 10.8% had performed physician-assisted suicide during their career, and 3.4% had done so in the prior 12 months. Of the oncologists who had performed physician-assisted suicide, 37% had done so only once, and 18% had done so five or more times.

(6) 3.7% had performed euthanasia during their career, and 0.8% had done so in the prior 12 months. Of the oncologists who had performed euthanasia, 57% had done so only once, and 12% had done so five or more times.

(7) Oncologists' support for physician-assisted suicide had declined from 45.5% in a 1994 survey to 22.5% in 1998; support for euthanasia had declined from 22.7% to 6.5%.

INTERNATIONAL DEVELOPMENTS

1. Australia

    a. Dr. Nitschke. Victoria's Medical Practitioners Board, which received a complaint in 1999 from the Australian Medical Association that Dr. Philip Nitschke advised patients to obtain lethal drugs illegally, recently rejected the complaint. Nitschke has announced that he will hold information clinics on euthanasia in New Zealand during January 2001, including four days in Auckland and three days in Wellington; New Zealand's national health spokesperson Wyatt Creech said on 10/10/00 that euthanasia was a conscience issue and the party did not have a position on it. Nitschke is working on an oxygen tent that allows terminally ill patients to set oxygen at lethally low levels and is raising $100,000 to set up a laboratory to test common weeds such as hemlock for their effectiveness as a lethal drug.

    b. Physician and family members charged with murder. A preliminary hearing is scheduled for November 2000 in the case of a Western Australia urologist, Dr. Daryl Allan Stephens, who is charged with the murder of 48-year-old Freeda Patricia Hayes on 2/4/00 at the Murdoch Community Hospice in Perth. Hayes, who was suffering from terminal cancer of the kidney, allegedly died after being given a lethal intravenous injection of atracurium and midazolam. If convicted, Stephens would face a mandatory sentence of 15 years without parole. Hayes' brother and sister, Warren Hayes and Lena Vinson, also are charged with murder for allegedly being present while the lethal injection was being administered. All three defendants have been released on bail.

2. Barbados. In June 2000, during a debate in the House of Assembly over the Constitutional Review Commission's report, Housing and Lands Minister Glyne Clarke and government backbencher David Gill suggested that House members consider legislation permitting assisted death.

3. Belgium. On 7/9/00, Belgium's best-known euthanasia advocate, Jean-Marie Lorand, died with the aid of his physician. The 51-year-old Lorand, who suffered from the incurable Charcot-Marie-Tooth disease, wrote about his life in the autobiography *Help Me To Die*. A government-backed euthanasia bill is pending in the Belgian Senate.

4. France. Nurse Christine Malevre will face trial in 2001 on seven counts of murder for allegedly practicing euthanasia to relieve the suffering of 11 elderly, terminally ill cancer patients who died in 1997 and 1998 at a hospital in Mantes-la-Jolie west of Paris.

5. Great Britain

    a. British Medical Association. On 6/27/00, the British Medical Association's annual conference voted for hospitals to change their culture so that life-or-death decisions are no longer made at the last minute by inexperienced trainees with no opportunity for discussion with the patient or senior staff. Dr. Alex Freeman, a general practitioner from Southampton, proposed the motion on behalf of a physician who worked at St. Mary's Hospital in Portsmouth, where a recovering breast-cancer patient discovered that a junior physician had written a do-not-resuscitate order without consulting with her. The conference

overwhelmingly voted that the British Medical Association should consider changing guidelines so that, where possible, written consent should be obtained from the patient or the family.

b. Dr. Peter Brand. A police investigation of MP Peter Brand, a physician from the Isle of Wight, concluded in August 2000 with a finding that Brand had not committed any criminal offense when he participated in withdrawing treatment from a two-year-old leukemia patient in 1973 at the request of the child's parents. The investigation of Brand began after he revealed the incident during parliamentary debate on the proposed Medical Treatment (Prevention of Euthanasia) Bill, which died in Parliament.

c. Police investigate hospital deaths. A team of 30 police officers is investigating the deaths of more than 50 patients in the care of Dr. Ann David, a consultant anesthetist at Basildon hospital, after a colleague raised concerns about her alleged use of high doses of painkillers. The inquiry may spread to David's previous employer, Wordsley hospital at Stourbridge in the West Midlands.

6. India

a. Request for child's mercy killing denied. Shobatai Ganesh Rohi, a farm worker in the Amravati district of the southern state of Maharashtra, sent a letter to the Chief Justice of the High Court seeking the mercy killing of her cancer-stricken 10-year-old daughter. In June 2000, the Court denied the request as "unthinkable" and unconstitutional. Instead, the court appointed a lawyer, M.R. Daga, as amicus curiae to supervise Pranjali Rohi's medical treatment at government expense.

b. Kerala High Court. The Kerala High Court has denied a petition of two elderly men who had demanded that assisted suicide be legalized.

7. Italy

a. Proposed legislation. The Green Party has submitted to the Italian Senate three legislative proposals aimed at guaranteeing the right to a dignified death. One of the proposed bills states that "every individual has a right to choose consciously the method used to end one's existence." On 7/12/00, Prime Minister Giuliano Amato said that he had asked the National Bioethical Committee to express its opinion on the subject.

b. Survey of physicians. A survey of 386 Italian oncologists, anesthetists, and general practitioners released in July 2000 showed that 39% had received requests to assist in the deaths of terminally ill patients and 4% admitted to facilitating the death of at least one patient.

c. Survey of medical students. A survey of 160 fifth- and sixth-year medical students at the Medical School of the University of Ferrara showed that 28.3% were somewhat in favor or strongly in favor of physician-assisted suicide and euthanasia, 45.0% favored and 45.7% opposed legislation allowing physician-assisted suicide, and 32.6% favored and 50.0% opposed legislation allowing active euthanasia. Luigi Grassi et al., *Medical Students' Opinions of Euthanasia and Physician-Assisted Suicide in Italy*, 160 Archives Internal Med. 2226 (2000).

8. Netherlands

a. Proposed legislation. In July 2000, the Dutch government dropped from proposed legislation a controversial provision that would have allowed terminally ill children age 12 to 16 to request aid in dying even if their parents objected. The purpose of the legislation is to legalize physician-assisted suicide and euthanasia, which have been technically illegal in the Netherlands but not prosecuted if physicians followed prescribed guidelines. A vote on the bill, which was delivered to the lower house of parliament on 8/9/99, is expected by the end of 2000. The bill brought more than 540 questions from legislators and activists during the review process, among the most government officials have ever gotten. The Christian Right Association, which has supported some euthanasia bills, objects to eliminating review by the prosecutor's office and to a proposed advance directive that would permit a patient suffering from dementia to indicate in advance that he or she wishes to die at a certain point.

b. Physician training. The Dutch medical association has conducted a three-day course to train 1,000 physicians to serve as specialized consultants when patients request euthanasia.

9. Uganda. At a July 2000 workshop of over 400 practicing doctors and medical consultants organized by the Uganda Medical Association, physicians were sharply divided over whether euthanasia should be legalized following its increasing demand, especially among AIDS patients.

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