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Patients Rights Council

Update

Colorado's doctor-prescribed suicide initiative up for a vote in November

A measure to allow doctors to prescribe lethal drugs to adult patients with six months or less to live has qualified for Colorado's November ballot. Using paid signature gatherers, the proponents of Prop 106 (the End-of-Life Options Act) were able to garner approximately 108,000 valid signatures to put the measure before Colorado voters. [Denver Post, 8/5/16]

Assisted-suicide advocates opted to go the initiative route after the legislature failed to pass bills to legalize the practice in 1995, 1996, 2015, and 2016. They essentially took the bill that failed this year—also titled the End-of-Life Options Act—and turned it into a ballot measure.

Prop 106 would amend the Colorado Revised Statutes to transform the current crime of assisted suicide into a medical treatment. Physicians licensed by the state would be allowed to pro-

vide lethal drugs (barbiturate overdoses) to competent, terminally ill, adult state residents who request the drugs so they can end their lives.

The Yes on Colorado End-of-Life Options group has raised \$4.47 million in the hope of convincing voters to pass its initiative. Four million (\$4 million) of that war chest came from the national group Compassion & Choices (C&C) Network, formerly the National Hemlock Society.

The opponents of the measure, No Assisted Suicide Colorado, have, so far, raised only \$1.23 million. [Coloradoan, 9/8/16]

The initiative battle has posed a serious semantic dilemma for the state's news outlets trying to report on the campaign. Should they call the issue before voters "assisted suicide" or should they use euphemistic terms created by C&C to make the issue

seem less abhorrent to the public, terms like "medical aid in dying" and "end-of-life option"?

KUSA 9News political reporter Brandon Rittman discussed the problem. "Supporters of that law have asked 9News not to call it assisted 'suicide.' They'd rather we call it 'medical aid in dying.'" He went on to say why the TV station decided not to grant that request.

"Supporters of this proposal want to change the dictionary definition of suicide," he said. "But it's not our job in the news business to change the dictionary. It's our job to use plain language that's current and accurate..." He explained that the *Oxford Dictionary*—among others—defines "suicide" as "killing oneself intentionally," which is exactly what the initiative allows with a doctor's assistance. [KUSA, 8/17/16]

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Canada's euthanasia body count mounts in just 2 months

Less than two months after Canada enacted its "medical assistance in dying" (MAID) law on June 17, the number of euthanasia and assisted-suicide deaths soared to approximately 120 people. But that's not an official figure because the government hasn't yet set reporting guidelines or started tracking the number of MAID deaths in the country's 13 provinces and territories.

The approximate 120 figure is the result of the Canadian Broadcast Company news department calling all the provinces to get the number of reported deaths in each. The combined totals for Ontario, British Columbia, Alberta, and Manitoba came to 118. Saskatchewan said there were fewer than 5. Quebec, The Yukon, New Brunswick, and Nova Scotia

refused to give out the number of deaths for privacy reasons, and Nunavut, Northwest Territories, Prince Edward Island, and Newfoundland and Labrador said there were no reported deaths during the two-month time span.

CBC News said the actual number of deaths will be significantly higher since some provinces and territories did not provide their MAID-death count. The 120 death figure "likely represents only one tenth of those who made 'serious requests' for medically assisted death." [CBC News, 9/2/16]

Apparently, the Canadian Bar Association (CBA) is not concerned about the alarmingly high death toll after the MAID law was enacted. At its annual meeting in August, the CBA's

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A look at some of California's first doctor-prescribed suicide deaths

California enacted its doctor-assisted suicide law, the End of Life Option Act, on June 9, 2016. The law—like Oregon-style prescribed death laws in other states—mandates confidentiality and secrecy with regard to a patient's assisted death and a health care provider's participation. The only official information the public gets to know is in an annual statistical report that is simply a sketchy sampling of the deaths that are reported in a given year to the state health department. (See Washington's report on page 3.) California's first assisted-suicide report won't be released until the summer of 2017.

So the only way the public hears about a specific patient's death is if the family or others close to the patient provides that information to the media.

The death of Linda Van Zandt's aunt

In August, the *Los Angeles Times* published an article by Linda Van Zandt on her unnamed aunt's less-than-dignified prescribed suicide. Her aunt had ALS (Lou Gehrig's Disease), and when the assisted-suicide law took effect, she declared her intention to use the law to end her life. But Van Zandt had difficulty finding a doctor willing to provide the lethal drugs. The aunt's condition was worsening, and the family feared she would not be able to ingest the drugs as mandated by the law.

After a willing doctor wrote the prescription and a pharmacy sent the costly (\$3,000) drugs by Uber driver to the aunt,

the family frantically began to crush pills and pour the powder out of 100 barbiturate capsules in order to create a "half-cup of sludge so bitter that it burned [Van Zandt's] tongue." The article didn't say how the aunt ingested the drugs.

Van Zandt did say that the experience was "fraught and frightening" for the family. "It didn't exactly match the serene scenario I'd pictured," she said. "When we sat back down at the kitchen table, white powder [from the capsules] everywhere, we all had to wonder, 'Who the hell wrote this law?'" [*LA Times*, 8/14/16]

The death of Judy Dale

Another article in the *San Jose Mercury News* revealed that "scores of terminally ill patients are learning to their dismay—and outrage—that the state's new aid-in-dying law comes with no guarantee of finding a doctor." In the case of cancer patient Judy Dale, no doctors at the University of California San Francisco Medical Center (UCSF) would agree to provide her with life-ending drugs, even after her oncologist and palliative care doctor had initially agreed to support her but then, months later, changed their minds. Also, UCSF did not provide a referral to any willing outside doctors. Dale was frantic.

According to the article, Compassion & Choices said that at least 50 Californians have gotten fatal drug prescriptions. Dr. Lonny Shavelson—who opened an assisted-suicide-only clinic in the backyard of his

Berkeley, California, home—claimed that about 120 people have contacted him for assistance. Judy Dale was one of them [*Mercury News*, 9/17/16]

The death of Betsy Davis

News of another death—one that made headlines around the world—was that of Betsy Davis, a 41-year-old artist with advanced ALS. Her story was first conveyed to the digital news organization Voice of San Diego by her sister, Kelly Davis. [voiceofsandiego.org, 8/9/16]

Apparently, Betsy did not experience the frustration and difficulties of the previous two patients in planning her death. She waited for the California law to take effect in June and then sent out invitations to her farewell "rebirth" party, a two-day event starting on July 23. In the invitation, she told her friends, "These circumstances are unlike any party you have attended before, requiring emotional stamina, centeredness, and openness. There is only one rule, she explained, "do not cry in front of me." "It is important to me that our last interactions in this dimension are joyful and light."

About 35 people came. They drank cocktails, made tamales and pizza, talked about past events, played music, danced, and worked on art projects. Betsy, also told them to go through her belongings and take what they wanted as a souvenir of her. The whole event was upbeat, with the many pictures of the party showing everyone smiling.

At around 6:30 pm on the second night, Betsy was helped into a special kimono and driven in a new Tesla car up to the top of the hill next to her house in Ojai, California. There she was placed on a mattress under a white canopy, where she drank a deadly combination of drugs. It took her four hours to die.

One of her friends called her party and death, "Betsy's last piece of performance art." The author of a *London Times* article, however, said that looking at the numerous pictures from the party "felt like watching a form of death porn." [*NBC Today*, 8/18/16; *London Times*, 8/14/16; *Washington Post*, 8/16/16]

Canada's euthanasia body count mounts in just 7 months, continued from page 1

council unanimously passed three resolutions urging the government to expand the law to allow euthanasia and prescribed-suicide deaths for more than the terminally ill—specifically those with psychiatric conditions, people with dementia who sign an advance euthanasia request, and mature minors. [*The Record*, 8/12/16; Canadian Press, 8/12/16]

Regarding mature minors, CBA's Alberta Chapter President Wayne Barkauskas said, "Canada is a signatory to a number of treaties and documents involving the rights of a child and, if you follow those

documents, it would indicate that a child should have the right [to die] as well." [*CHED* (AM 630), 8/14/16]

The CBA's law expansion efforts support a lawsuit filed within days of the MAID law's enactment by the British Columbia Civil Liberties Association (BCLA) that claims that the law is unconstitutional because it restricts MAID to only the terminally ill and denies the assisted-death right to the same categories of patients listed in the CBA's three resolutions. The BCLA's case is pending. (For more on the lawsuit, see *Update*, 2016, No. 3, p.5) ■

Washington State's 2015 report shows significant increases in assisted-suicide deaths and doctor participation

The Washington State Department of Health (WSDH) recently released its 2015 annual assisted-suicide report. The statistical report indicates that between January 1, 2015 and December 31, 2015, 213 patients were prescribed lethal drugs by 142 individual doctors, and 166 of those patients ingested the drugs and died.

Those figures represent a significant increase over the statistics reported just one year ago: a 21% rise in the number of patients given lethal drug prescriptions, a 30% jump in the number of different doctors who wrote those prescriptions for patients, and a 32% leap in the number of patients who died as a result of those prescriptions.

Of the 213 patients prescribed lethal drugs, 202 died in 2015—but not all those deaths were caused by the lethal drug overdoses. In addition to the 166 patients who died as a result of the drugs, 24 died without ingesting them. For the remaining 12 patients who died, the WSDH has no clue if they took the drugs or not. The state also doesn't know if an additional 11 patients are even alive or dead.

Washington State's assisted-suicide reports, like Oregon's official reports, are riddled with a significant amount of "unknown" data, which raises questions concerning the credibility of each state's reports. (For more on Oregon's reports, see *Update*, 2016, No. 2, p. 3)

Of the 202 deaths that the WSDH knows about, 72% had cancer, 8% had a neuro-degenerative disease like ALS, and 20% had respiratory disease, heart disease, and "other illnesses." Those other illnesses are not listed.

Oregon's 2015 report does list the specific other illnesses in a footnote. Included among those illnesses was diabetes. [*Oregon Death with Dignity Act: 2015 Data Summary*, Footnote 2, p. 7]

The 202 Washington patients who died in 2015 ranged in age from 20 to 97 years-old. The vast majority (95%) lived west of the Cascade mountains. Of the 213 patients who were prescribed lethal drugs, only 8 (4%) were referred for a psychiatric or psychological evaluation. [WSDH, 2016 *Death with Dignity Act Report*, 8/16]

End of Life WA (formerly Compassion & Choices of WA) assisted 93% of those opting for death in 2015. [EOLWA, Newsletter, Summer/16.] ■

Reported Assisted-Suicide Deaths in Washington 2009-2015

Report data supplied by lethally-prescribing doctors, pharmacists, & death certificates.¹

Figures and percentages are those reported by the state, and can change from year to year.

Categories	TOTAL	2015 ²	2014	2013	2009-12
No. of reported assisted-suicide participants (patients who received lethal prescriptions)	936	213	176	173	374
No. of reported assisted suicide deaths (participants ingested lethal drugs & died)	651	166	128	119	240
No. of unreported assisted-suicide deaths	Unknown ¹	Unknown ¹	Unknown ¹	Unknown ¹	Unknown ¹
No. of individual reporting doctors who wrote lethal prescriptions in a given year	??	142	109	89	??
No. of cases where the patient's status (living or deceased) or ingestion status is reported as "unknown"	159	23	33	26	75
No. of cases where prescribing doctor was present at the time lethal drugs were ingested	30	9 [5%]	7	2	12
No. of patients referred for psychiatric evaluation	33	8 [4%]	6	6	13
Patients' reasons for requesting death:¹					
Loss of autonomy	795	169 [86%]	127	132	277
Inability to do enjoyable activities	793	170 [86%]	135	129	299
Loss of dignity	596	135 [69%]	113	115	235
Being a burden	419	105 [52%]	85	88	141
Lost control of bodily functions	405	96 [49%]	73	75	161
Pain or concern about it	285	70 [35%]	50	53	103
Financial implications of treatment	69	25 [13%]	12	19	13
Complications from lethal drugs:					
Regurgitation	9	2 [1%]	2	3	2
Seizures	1	0 [0%]	1	0	0
Patient awakened	2	0 [0%]	0	0	2
Other ⁴	2	1 [1%]	0	0	1
Cases unknown	43	14 [8%]	2	10	17
Reported cases of doctor non-compliance with the assisted-suicide law	Not Reported	Not Reported	Not Reported	Not Reported	Not Reported
Penalties imposed for non-compliance with the law	Not Reported	Not Reported	Not Reported	Not Reported	Not Reported

1. The Washington State Department of Health (WSDH), the agency responsible for overseeing assisted-suicide practice, has no way of knowing if 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 contains no data on the patients who died by doctor-prescribed suicide. Death certificates, by law, are not permitted to indicate drug overdose as the true cause of death.

2. Since the WSDH reports do not identify the lethally-prescribing doctors, there is no way to determine the total number of doctors who wrote prescriptions beyond a year at a time. The same doctor could have written multiple lethal drug prescriptions for multiple patients over the time span since assisted suicide was legalized.

3. The Washington report states, "Participants may have selected more than one end of life concern. Thus the totals are greater than 100 percent."

4. This category was not included in the 2009, 2010, and 2011 annual reports.

Source:

Washington State Department of Health, 2015 *Death with Dignity Act Report*, 8/16. All Washington's annual reports are available online at: <http://doh.wa.gov/dwa/>.



News briefs from home & abroad . . .

● United States:

- **Status of state assisted-suicide measures** - In 2016, the following states defeated bills to legalize doctor-prescribed suicide: Alaska, Arizona, Colorado, Hawaii, Iowa, Kansas, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Oklahoma, Rhode Island, Tennessee, Utah, and Wisconsin.

Recently, a prescribed-suicide bill was introduced in Michigan—the home state of the late “Dr. Death,” Jack Kevorkian. Also, while New Jersey rejected a bill earlier this year, the measure’s sponsors quickly reintroduced it, so it’s still an active bill. Other states with pending assisted-suicide measures are Delaware, District of Columbia (DC), and Pennsylvania. The DC Council is scheduled to hear its bill on October 5. A Council vote will likely follow.

- **Colorado Medical Society** - One of the contributing factors that enabled legislators to pass California’s doctor-prescribed suicide law in 2015—after years of repeatedly rejecting similar measures—was the California Medical Association’s (CMA) decision to change its traditional stand of opposition to such bills to one of neutrality. On September 16, 2016, the Colorado Medical Society (CMS) followed the CMA’s lead and voted to take a neutral stand on Prop 106, the November ballot measure to legalize doctor-assisted suicide in Colorado. [CMS website, Breaking News, 9/16/16]
- **Depressed patients slipping through the cracks** - According to a report released by the Agency for Healthcare Research & Quality (AHRQ), nearly three in four adult Ameri-

cans who would meet the clinical criteria for a diagnosis of depression are not even being tested for it. Researchers screened 46,417 adults for depression. Of those surveyed, 8.4% screened positive for the condition. Yet, while 78.5% of those had seen a medical provider during the year, only 28.7% received any kind of treatment for depression. The National Institute of Mental Health and the Centers for Disease Control estimate that more than 15 million Americans live with depression, an illness that claims more than 41,000 lives per year. A study recently published in *Health Affairs* found that “US primary care practices are not well equipped to manage depression as a chronic illness.” [ABC, 8/29/16; *Health Affairs*, 3/16]

- **Belgium**: An unnamed, terminally ill youngster in the Flemish region of Belgium was the first reported child to be euthanized since the country legalized the practice for minors of any age in 2014. Details regarding the child’s age, sex, and terminal illness were not disclosed—although multiple news sources reported that the minor was 17 years-old. News of the death was announced by the euthanasia pioneer Dr. Wim Distelmans, who heads the country’s Federal Control & Evaluation Committee. He told the Flemish newspaper *Het Nieuwsblad* that the death was reported to the committee by a local doctor the week before Distelmans’ September 17 announcement. In order to terminate the life of a minor, the law requires that the child be able to rationally make decisions and the parents must give their permission for the lethal injection. [*Het Nieuwsblad*, 9/17/16; *Bi-odegde*, 9/17/16] So as not to be outdone by Belgium, Dutch pediatrician Eduard Verhagen predicted that a center for euthanizing children would open in the Netherlands next year. [nltimes.com, 9/19/16] Currently, Dutch law doesn’t allow minors aged 1-11 to be euthanized. ■

PRC ALERT

The America Medical Association (AMA) is considering changing its decades-long opposition to doctors participating in the intentionally induced deaths of patients. At its interim meeting in November, the AMA will consider taking a neutral stand on doctor-assisted suicide. Anyone who is concerned about this possible policy change should express those concerns to:

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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 wide 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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