

## EUTHANASIA SPREADS IN EUROPE

American bioethicist Wesley Smith writes about the spread of assisted suicide. Here is an excerpt from the *National Review* (October 2, 2011).

The article titled: *Euthanasia Spreads in Europe* was a response to the fact that after a recent presentation by Smith, a



**Wesley J. Smith** is a lawyer and an award-winning author of twelve books. He is a Senior Fellow at the Discover Institute's Center on Human Exceptionalism.

self-described "mentally ill" woman took the microphone and strongly declared that she too should have the right to doctor-prescribed death. More than half the audience applauded, validating the woman's potential suicide.

Smith responds: "I am convinced that, at least in part, the assisted-suicide movement has eroded society's commitment to suicide prevention. It has created an atmosphere where many people now see "dead" as better than "dying" and

See **Wesley Smith** on page 4....

## FOUNDER OF AUTISM RIGHTS GROUP TACKLES DR. OZ

On November 1, the Dr. OZ show was on the issue of assisted suicide. Dr OZ began inquiring about doing an assisted suicide show with an online questionnaire concerning assisted suicide. The online questions were clearly supported assisted suicide.

The following article was written by Ari Ne'eman, a Member of the National Council on Disability, an independent federal agency which advises Congress and the President on disability policy. EPC edited the article for length.

### ***Death on Demand: Risks and Responsibility***

There are many critical civil rights issues facing Americans with disabilities and chronic health conditions – but the right to die is not one of them. Over the last 15 years, Americans have been engaged in an intensely controversial debate as to whether or not states should legalize assisted suicide for individuals with significant disabilities and terminal illnesses.

First, let's explore the myths surrounding physician-assisted suicide laws. Those who believe so-called "Death With Dignity" laws will result in pressure on disabled Americans to take their

own lives are frequently rebutted by saying such laws only apply to those with terminal illnesses, individuals who are already near death. While this may be the intent of many of these laws, the reality paints a very different picture.



**Ari Ne'eman** Ari Ne'eman is an American autism rights activist who cofounded the Autistic Self Advocacy Network in 2006

According to the Oregon Public Health Division, the length of time between the request for a lethal dose of medication and actual death has been extended up to nearly three years. This suggests a sub-

See **Ari Ne'eman** on page 4....

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# The Carter Case and Assisted Suicide

*This is a summary of the key arguments in our intervention before the BC Court. Prepared by: Will Johnston, MD ~ Margaret Dore, JD ~ Alex Schadenberg*

## A. Introduction

Carter vs. Attorney General of Canada brings a constitutional challenge to Canada's laws prohibiting assisted suicide and euthanasia. Carter also seeks to legalize these practices as a medical treatment. Last year, a bill in Parliament seeking a similar result was overwhelmingly defeated. Legalizing this practice would be a recipe for elder abuse. Legalization would also empower the Canadian health care system to the detriment of individual patient rights. There would be other problems.

## B. Parliament Rejected Assisted Suicide

On April 21, 2010, Parliament defeated Bill C-384, which would have legalized physician-assisted suicide and euthanasia in Canada. The vote was 228 to 59.

## C. The Carter Case

Carter seeks to allow a medical practitioner or a person "acting under the general supervision of a medical practitioner" to assist a patient's suicide. Carter's Amended Notice of Civil Claim states: " 'physician-assisted suicide' means an assisted suicide where assistance to obtain or administer medication or other treatment that intentionally brings about the patient's own death is provided by a medical practitioner . . . or by a person acting under the general supervision of a medical practitioner . . ."

In the context of traditional medical treatment, "a person acting under the general supervision of a medical practitioner" would include a family member. An example would be an adult child who administers medication to a parent under the general supervision of a doctor who is not present. Typically, this would be in a home setting.

In Carter, the Amended Notice of Civil Claim argues that laws prohibiting physician-assisted suicide are unconstitutional for patients who are "grievously and irremediably ill." The term "grievously and irremediably ill" is not defined. The Amended Notice of Civil Claim does, however, give these examples of qualifying diseases/conditions: "cancer, chronic renal failure and/or cardiac failure, and degenerative neurological diseases such as Huntington's disease and multiple sclerosis." The phrase, "grievously and irremediably ill" would also appear to apply to chronic conditions such as diabetes and HIV/AIDS. People who have these diseases/conditions can have years and sometimes decades to live. The Amended Notice of Civil Claim does not seek to require that the death be witnessed. The medical practitioner is not required to be present at the patient's death.

## D. A Comparison to the United States

There are two states where physician-assisted suicide is legal: Oregon and Washington. In each state, assisted suicide laws were passed via highly financed sound-bite ballot initiative campaigns. A ballot initiative is similar to a referendum in Canada. In the US, no assisted suicide law has made it through the scrutiny of a legislature despite more than 100 attempts.

In 2010, there was a proposed bill to legalize assisted suicide in the state of Montana. During a hearing on the bill, Senator Jeff Essmann made this observation: "All the protections [in Oregon's law] end after the prescription is written. [The proponents] admitted that the provisions in the Oregon law would permit one person to be alone in that room with the patient. And in that situation, there is no guarantee that that medication is self-administered."

## E. A Recipe for Elder Abuse

Elder abuse includes physical, psychological and financial abuse. Financial abuse is the most commonly reported type. Elder abuse is, however, largely unreported and can be very difficult to detect. This is due in part to the reluctance of victims to report. The Government of Canada website states: "Older adults may feel ashamed or embarrassed to tell anyone that they are being abused by someone they trust."

Elders' vulnerabilities and relative wealth have led to murder with the perpetrators often being family members. An example is Melissa Friedrich, the "Internet Black Widow." She killed her first husband and is accused of poisoning her second husband and another elderly man in order to get their money.

If assisted suicide were to be legalized via Carter, new paths of abuse would be created against the elderly. The most obvious path would be due to Carter's lack of required witnesses at the death. Without disinterested witnesses, an opportunity is created for a family member, or someone else who will benefit from the patient's death, to administer the medication to the patient without his consent. Even if he struggled, who could know?

Consider also this comment from Nancy Elliott, a former member of the New Hampshire House of Representatives: "Assisted suicide laws empower heirs and others to pressure and abuse older people to cut short their lives. This is especially an issue when the older person has money. There is NO assisted suicide law that you can write to correct this huge problem."

Preventing elder abuse is official Government of Canada policy.

## F. Empowering the Healthcare System

In Oregon, where assisted suicide has been legal since 1997, people desiring treatment under the Oregon Health Plan have been offered assisted suicide instead. The most well-known cases involve Barbara Wagner and Randy Stroup. Each wanted treatment. The Plan offered them assisted suicide instead.

Neither Wagner nor Stroup saw this scenario as a celebration of their individual rights. Wagner said: *"I'm not ready to die."* Stroup said: *"This is my life they're playing with."*

Wagner and Stroup were steered to suicide. Moreover, it was the Oregon Health Plan, a government entity, doing the steering. If assisted suicide were to be legalized in Canada, the Canadian health care system would be similarly empowered to steer patients to suicide. With legal assisted suicide, the healthcare system, doctors and the government would be empowered, not individual patients.

## G. Legal Assisted Suicide Encourages People to Throw Away Their Lives

In Oregon and Washington, assisted suicide laws apply to "terminal" patients, defined as having no more than six months to live. Such persons are not necessarily dying. Prognoses can be wrong. Moreover, treatment can lead to recovery. Oregon resident Jeanette Hall, who was told that she had six months to a year to live, states: *"I wanted to do what our [assisted suicide] law allowed, and I wanted my doctor to help me. Instead, he encouraged me not to give up, and ultimately I decided to fight my disease. . . . It is now 11 years later. If my doctor had believed in assisted suicide, I would be dead."*

This year in New Hampshire doctors being wrong was a reason for the defeat of a proposed assisted suicide bill. The majority committee report for the New Hampshire House of Representatives states: *"[T]his bill would legalize state-sanctioned suicide for people with terminal illnesses and that this is an area where government does not belong. People with terminal illnesses who may consider suicide do not need encouragement from the government. . . . The committee also recognizes that doctors' diagnoses and predictions may be incorrect; numerous cases exist where people have lived far beyond their doctor's predictions, some of them having been cured from their terminal disease. For these reasons, the committee strongly believes that this bill represents bad policy and practice and [recommends that the bill be defeated]."*

The vote to defeat the bill was 234 to 99.

## H. Suicide Contagion

Oregon's suicide rate, which excludes suicides under its physician-assisted suicide law, has been "increasing significantly" since 2000. Just three years prior, Oregon legalized physician-assisted suicide. This increase in other suicides is consistent with a suicide contagion. In other words, one type of suicide encouraged other suicides. In Canada, preventing suicide is a significant public health issue.

## I. Doctor and Heir Protection

At their most basic level, physician-assisted suicide laws protect doctors and other assisting persons. In Oregon and Washington, this protection is accomplished via statutory immunity provisions that prevent criminal and civil liability from being imposed against a person who assists a "qualified patient" to die. In Carter, the Amended Notice of Civil Claim appears to be seeking similar immunity by arguing that "persons assisting" have a constitutional right to do the assisting. The Amended Notice of Civil Claim states: *"The right to liberty of persons who assist or support a grievously and irremediably ill person to obtain physician-assisted dying services [physician-assisted suicide] must necessarily be protected in order to give meaning to the s. 7 life, liberty and security of the person rights of grievously and irremediably ill persons."*

With doctors and other assisting persons protected with a constitutional right, a patient subjected to their actions would be left with little or no recourse.

In Montana, Senator Essmann made a similar observation: *"You know, the sponsor [of the assisted-suicide bill] has talked about our obligation to look after the people in the medical profession. But, I am way more worried about our obligation to protect the powerless."*

## J. Conclusion

Carter's claim that legalization of assisted suicide will enhance individual rights is untrue. Legalizing assisted suicide would instead be a recipe for elder abuse. Heirs and other predators would be empowered at the expense of the individual rights of older Canadians to safety and security. Legalization would also empower the health care system, doctors and the government to steer patients to suicide. Some individuals with many quality years left would be encouraged to kill themselves. In Oregon, other suicides have increased with legalization of assisted suicide. Canada does not need the "Oregon experience."

This article is available with full citations of all sources at : <http://alexschadenberg.blogspot.com/>

***"Those who believe that legal assisted suicide . . . will assure their autonomy and choice are naive." [William Reichel, MD Montreal Gazette, May 30, 2010]***

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... **Wesley Smith** from page 1

*suicide as a valid remedy for the debilitations caused by serious illness, disability, or being frail, elderly, “tired of life,” or chronically — or even, as I have seen, mentally — ill.”*

He then suggests that the trend toward the acceptance of suicide, will lead to the acceptance of assisted suicide and euthanasia. Smith comments on the recent suggestions by the Dutch Medical Association (KNMG) which has published a new set of suggested protocols for euthanasia, including:

- Loosening the definition of “unbearable suffering” for euthanasia qualification to include non-medical issues.
- Social factors such as “loneliness,” strained “financial resources,” and a “loss of social skills.”
- Doctors may supply “how to commit suicide” reading to patients who don’t legally qualify for euthanasia.
- Dissenting doctors do not have a right to refuse to participate in euthanasia on the basis of conscience.

Smith says: “*Matters are even worse in Belgium, which legalized euthanasia in 2002. Where the Dutch slid slowly down the slippery slope over decades, Belgium has leaped off the moral cliff head-first.*” Smith enumerates:

- Belgium has allowed couple euthanasia, whereby one partner is terminally ill and the other partner is healthy,
- A study published in the CMAJ showed that 32% of all euthanasia deaths were done without request or consent.
- A study published in the BMJ showed that 47% of all euthanasia deaths were not reported.
- Nurses are doing euthanasia in Belgium.

Smith comments on their recent decision to allow organ harvesting/euthanasia. The first case of organ harvesting/euthanasia was a paralyzed woman who was asked if she could donate her organs after euthanasia. What is not surprising is that a recent study suggested that the quality of the organs retrieved from euthanasia were superior. Smith then states:

*“Tying euthanasia to organ donation crosses a very dangerous bridge, giving Belgian society a utilitarian benefit from*

*mercy killing, as it informs despairing, disabled, or mentally ill people that their deaths have greater value than their lives.”*

The euthanasia and assisted suicide experiment in Europe continues to slide down the slippery slope. Let’s not follow the same suicidal path in North America.

... **Ari Ne’eman** from page 1

stantial number of patients affected by the law were not terminally ill, and may have benefited from palliative care, pain management or the psychiatric counseling considered standard for any non-disabled individual making a comparable request. Ample evidence suggests proponents of physician-assisted suicide have never intended to stop at the terminally ill. Legislation introduced in New Hampshire in 2009 defined terminal illness so broadly as to allow for a lethal prescription for any condition which shortens lifespan without a known treatment – even if the individual in question might have lived years or even decades longer.

If the only alternative to death offered is poverty and segregation, we are not providing people with meaningful choices. This, not illness, is why people make the choice to die. So-called “Death With Dignity” legislation allows society to abandon its duty of care to people with disabilities. The long and difficult task of building a more just and inclusive society remains unfulfilled. Legalizing physician-assisted suicide takes us further away from realizing that potential.

**Coming Up**

**EPC Petition Campaign Ends December 31**

We have received hundreds of petition pages, containing many thousands of names. If you have not signed it yet, we will be receiving the petitions until Dec 31 2011.

**Parliamentary Committee on Palliative and Compassionate Care Report November 17**

This long-awaited report will establish the principles for future laws on care and compassion for aging Canadians.

**BCCLA Case Begins November 14**