



Euthanasia Prevention Coalition

NEWSLETTER

Number 88

SPECIAL EDITION

July 2008

Bill C-562 – What is Francine Lalonde thinking?

By Alex Schadenberg,
Executive Director, Euthanasia Prevention Coalition

I like to think that activists who promote the legalization of euthanasia and assisted suicide are people who have the best of intentions but view life in a different way than I do. When I attended the World Federation of Right to Die Societies bi-annual conference in Toronto (Sept 2006), I experienced a very different reality.

Many of the people present were directly involved in skirting the law by causing the death of people.

The concern I have for vulnerable people was simply negated and all effective opposition to their ideology was attacked as religious dogmatism.

When I read Bill C-562 I feel the same type of unrest in my heart as I felt when I attended the Right to Die conference.

Bill C-562 legalizes euthanasia and assisted suicide for people who experience physical and mental pain. People who experience mental pain are often among the most socially devalued persons in our culture and yet Lalonde is willing to prescribe death instead of compassionate care for them.

Bill C-562 does not define terminal illness. Does it not concern Lalonde that people who receive a terminal diagnosis are often immediately shocked by that information? Many people go through a temporary depression after learning of their medical condition and only after experiencing a supportive environment or a period of acceptance do they once again gain composure.

Bill C-562 bases competency on whether or not the person appears to be lucid. Does Lalonde not realize that one is not competent unless they are actually lucid? Many people who experience chronic depression will appear to be lucid when in fact they are not competent to make important decisions.

Bill C-562 does not limit euthanasia and assisted suicide to physicians. Lalonde uses the term medical practitioner as defined by provincial law. This term is not limited to physicians only.

I do not like to compare people to the type of advocacy work that is associated with Philip Nitschke, Australia's Dr. Death, but Nitschke advocated that an incompetent person with Alzheimer's disease be allowed to die by euthanasia.

Bill C-562 allows for the euthanasia of incompetent people so long as they have made the request in a valid advanced directive. Is Lalonde not concerned that medical practitioners may use this part of her bill to eliminate many of the most expensive patients in our long-term care facilities?

The "Dying with Dignity" movement uses the claim to be about legalizing euthanasia and assisted suicide for terminally ill people who are suffering uncontrolled pain, as their calling card. In reality they are about the "right to die" becoming recognized as a radical new human right that will be available to everyone, at anytime, for any reason.

Bill C-562 would move Canada very close to that radical social position.

DON'T MISS IT!

"DEATH MAKING" – Canada's National Euthanasia Symposium **October 24-25 in Winnipeg, Manitoba**

Featuring: *Not Dead Yet* founders **Diane Coleman** and **Stephen Drake**,

Palliative Care experts **Dr. Margaret Cottle** and **Dr John Scott**,

Disability leaders **Jim Derksen** and **Rhonda Wiebe**, **Dr. Mark Mostert** on eugenics,

Legal Experts **Hugh Scher** and **Neil Kravesky**,

and **Alex Schadenberg**.

Location: Victoria Inn Winnipeg

Registration: \$99 regular, \$69 Students or Persons with Disabilities.

Fill out the registration form included in this mailing or go to www.epcc.ca or call toll free 1-877-439-3348

Euthanasia Prevention Coalition • P.O. Box 25033 London ON N6C 6A8

Tel 1-877-439-3348 / 519-439-3348 • Fax 519-439-7053 • info@epcc.ca • www.epcc.ca

Analysis of Bill C-562: An act to amend the Criminal Code (right to die with dignity)

By **Alex Schadenberg**,
Executive Director, Euthanasia Prevention Coalition

On June 12, 2008 Francine Lalonde MP (Bloc Quebecois) from La Pointe-de-l'Île introduced Bill C-562: An Act to amend the Criminal Code (right to die with dignity). This bill has only minor revisions to Bill C-407, which Lalonde introduced in 2005.

Bill C-562 amends subsections 222(7) and subsection 241(2) of the criminal code.

Section 222 is the homicide provision in the criminal code. Bill C-562 legalizes euthanasia by amending subsection 222(7) of the criminal code.

Euthanasia is a deliberate act undertaken by one person with the intention of ending the life of another person to relieve that person's suffering where the act is the cause of death. (Senate Committee Report *Of Life and Death* - 1995)

Section 241 is the assisted suicide provision in the criminal code. Bill C-562 legalizes assisted suicide by amending subsection 241(2) of the criminal code.

Assisted suicide is the act of intentionally killing oneself with the assistance of another who provides the knowledge, means or both. (*Of Life and Death* - 1995)

Bill C-562 amends the criminal code by adding to subsections 222(7) and 241(2) exceptions whereby the law can be circumvented.

- The bill states that “the person must be at least eighteen years old.”

This “safeguard” may be unconstitutional because it limits what is determined by the bill to be appropriate medical treatment based on the age of the person. Since the constitution recognizes that we are all equal under the law, therefore it may be unconstitutional to limit the rights of individuals, based on age, without good reason.

- The bill states that the person is eligible “after trying or expressly refusing the appropriate treatments available that they continue to experience severe physical or mental pain without any prospect of relief.”

Therefore, **a person is eligible if they experience severe physical pain without any prospect of relief.** Physical and mental pain can always be mitigated. Modern palliative care and has substantially improved over the past 20 years. Whereas medical science has not solved all the every problem with pain and symptom management, the concept of physical pain without any prospect of relief is more a sign of a patient who has not been appropriately cared for and not a reason for euthanasia or assisted suicide.

The bill is a direct threat to the lives of people with disabilities and/or people with chronic conditions who are often viewed as being without any prospect of relief. People with

disabilities often view their life experience differently from those who are making judgement of their quality of life.

A person is also eligible if they experience severe mental pain without any prospect of relief. Chronic depression and mental pain is always treatable. Further, one must question the concept of providing euthanasia and assisted suicide to a person who experiences a chronic depression or mental pain because you could never be sure that they are competent to consent.

The bill does not require medical practitioners to refer people with mental pain to a registered psychiatrist or a psychologist.

A person is also eligible if they have refused appropriate treatments that are available. **How can a physician determine that there is no prospect of relief if the person refuses appropriate treatments?**

- The bill states that the person is eligible if “they suffer from a terminal illness.” **The bill does not define terminal illness.**

Many people live with a terminal illness but are not actively dying. My step-father died 2½ years after being diagnosed with terminal cancer.

This bill would have qualified my step-father for euthanasia or assisted suicide when he was diagnosed.

- The bill states that the person is eligible if “the person has provided a medical practitioner, while appearing to be lucid, with two written requests more than 10 days apart expressly stating the person's free and informed consent to opt to die.”

The assumption that someone is competent when they are **appearing to be lucid** is very questionable. To appear to be lucid cannot be considered an appropriate measure for competency.

The safe-guard related to making two written requests more than 10 days apart is to prove the lasting intent of the person. The fact that the person who makes the request only needs to appear to be lucid renders the safe-guard ineffective.

- The bill states that if “the person has designated in writing with free and informed consent, before two witnesses with no personal interest in the death of the person, another person to act on his or her behalf with any medical practitioner when the person does not appear to be lucid.”

This means that a person can die by euthanasia if they have made the request in a valid advanced directive.

It is unclear whether the person who commits euthanasia on behalf of the incompetent person must be a medical practitioner. The bill states that “another person can act on his or her behalf with any medical practitioner when the person does not appear to be lucid.” This may mean that a person can cause the death of an incompetent person if it is done with a medical practitioner and fulfills the request within a valid

Analysis of Bill C-562 (continued)

advanced directive?

- The bill requires that “written confirmation of the diagnosis been received from at least two medical practitioners.”

The bill does not limit the practice of doctor shopping. In the state of Oregon, people who are denied an assisted suicide prescription from one doctor will simply go to another doctor.

- The bill requires “the medical practitioner to assure that there are no reasonable grounds to believe that the written requests for euthanasia and assisted suicide was made under duress or while a person was not lucid.”

This safeguard is designed to guarantee competency. Since the person who makes the request only needs to “appear to be lucid” renders the safeguard ineffective.

- The bill requires “the medical practitioner has informed the person of the consequences of the request for euthanasia or assisted suicide and of the alternatives that are available to the person.”

This safeguard is designed to guarantee that the person is

aware of the available options. Since the person is not required to try effective treatments renders the safe-guard ineffective.

- The bill requires the medical practitioner “to act in the manner indicated by the person and that the person may revoke their request at any time.”

- The bill requires “the medical practitioner to provide the coroner with a copy of the written confirmations of the diagnosis that were received from at least two medical practitioners.”

This is a common “after-the-fact” reporting system that exists in other jurisdictions where they have legalized euthanasia and/or assisted suicide. **After-the-fact reporting does not provide any protection for the person who has died already,** it only provides protection for the medical practitioner.

- The bill defines medical practitioner as a duly qualified person by provincial law to practice medicine. **The definition of medical practitioner is not limited to a physician.**

Summary of analysis of Bill C-562

- The bill legalizes euthanasia and assisted suicide in Canada.

- The bill does not restrict euthanasia and assisted suicide to citizens of Canada. Canada could become a haven for American Suicide Tourists.

- **The person must be at least 18 years old.**

- **A person may refuse appropriate treatments and still obtain euthanasia or assisted suicide.** How can a physician determine that there is no prospect of relief if the person refuses appropriate treatments?

- **The person may be experiencing either physical or mental pain.** The bill will allow death as a treatment for depression or other chronic mental conditions.

- **The bill does not define terminal illness and it is not limited to people who are terminally ill.**

- The bill measures competency based on **appearing to be lucid.** What does that mean?

- The bill requires the person to submit **two written requests at least ten days apart.**

- The bill allows **incompetent people to die by euthanasia** if they have made the request within a valid advanced directive. It is not clear whether medical practitioners are the only ones who can carry out euthanasia on incompetent people.

- The bill requires at least two medical practitioners to confirm the person's diagnosis in writing.

- The bill requires that all requests for euthanasia and assisted suicide be made free of duress.

- The bill requires the medical practitioner to inform the person of all alternatives.

- The bill assures that the person may revoke their request at any time.

- The bill requires the medical practitioner to provide

confirmation of the diagnosis to the coroner. **After-the-fact reporting systems only protect the medical practitioner and not the person.**

- **The definition of medical practitioner is not limited to a physician.**

Final comments:

Legalizing euthanasia or assisted suicide is always wrong because:

- It directly and intentionally threatens the lives of the most vulnerable members of society. The lives of people with disabilities and chronic conditions, people who live with depression and mental illness, and others are directly threatened by euthanasia and assisted suicide.

- It establishes euthanasia and assisted suicide as treatment options for problems that are properly solved by effective and compassionate medical care.

- It changes the trust relationship between the medical practitioner and the patient.

- Society cannot legislate autonomy and choice in relation to acts that intentionally and directly cause death. No level of safeguard will ever protect vulnerable people from the subtle pressure to “choose” death.

Canadians must promote the right of every Canadian to excellent end-of-life care and to guarantee that every Canadian is treated with respect and dignity until their natural death.

Samuel Golubchuk died on June 24

Samuel Golubchuk died a peaceful and natural death. His death needs to be remembered by the courage that his children Miriam and Percy had in defending his wishes and his faith.

Very few parents can say that their children would go this far to protect them. <http://www.winnipegfreepress.com/breakingnews/story/4190883p-4781717c.html>

Neil Kravetsky, the lawyer who represented Golubchuk said that he believed that Golubchuk, a Second World War veteran, won his case. Kravetsky said. “He didn’t die because they pulled him off life support. He died when his time had come.”

Dr. Joel Zivot, the physician who agreed to treat Golubchuk near the end of his life stated at his funeral that he was honored and privileged to care for Golubchuk in his last days.

Zivot said that he was compelled by the family’s struggle to respect Golubchuk’s Orthodox Jewish beliefs. He said “I apologize... maybe we let you down.”

The Euthanasia Prevention Coalition remains committed to pressuring The College of Physicians and Surgeons of Mani-

toba to amend their Statement on Withholding and Withdrawing Life-Sustaining Treatment.

Judge Schulman stated in his decision to grant a temporary injunction from removing life-sustaining treatment from Golubchuk that the issue of “who decides” when removing life-sustaining treatment is not settled in law.

Jocelyn Downie, Canada’s leading proponent of legalizing euthanasia also stated on June 9th to a conference in Winnipeg Manitoba that doctors do not have the right to remove life-sustaining treatment against the wishes of the patient.

Downie stated that there is no legal precedent in Canada that gives doctors the authority to remove a feeding tube or issue do not resuscitate orders against a patient’s wishes.

The Manitoba College believes that physicians have the right to decide when to withhold or withdraw life-sustaining treatment including fluids and food, even if the patient will possibly recover and even against the expressed wish of the patient.

This must change.

A Trojan Horse

*Statement by
Care Not Killing Alliance - UK - June 2008*

Dignity in Dying (DID), formerly the Voluntary Euthanasia Society, has labelled Parliamentarians who oppose assisted dying as ‘anti-choice’. DID ran the feature in its Autumn newsletter (page 3) as part of its Palliative Care – Fact not Fiction campaign, which has also included sending Parliamentarians a fact-sheet subtitled ‘Support more care and more choice’.

The motivation behind all this is clear enough. Three ‘assisted dying’ bills have failed to make headway in Parliament in the last five years. So the strategy now seems to be to approach the subject more obliquely – by supporting palliative care and greater choice at the end of life in order to argue that physician assisted suicide is just another end-of-life choice.

No doubt, when the next bill is introduced into Parliament, its title will not suggest any overt link with euthanasia or assisted suicide. It will probably be about extending palliative care and/or end-of-life choice. Parliament, we trust, will not be fooled so easily.

Anti-killing, pro-choice

We welcome DID’s recent emphasis on palliative care and fully agree that ‘...the Government should provide all terminally ill patients with the option of good quality palliative care’ (DID’s letter to all MPs, October 2007). More patient choice at the end of life – for example, choice over place of death – should indeed be promoted. In this respect we too are pro-choice.

However, we cannot agree that (as DID puts it) ‘patient choice should include the right to a medically assisted death for those who are terminally ill and suffering unbearably’ (DID’s fact sheet, page 2). That terminally ill people should be able to obtain lethal drugs from their doctors with which to commit suicide cannot responsibly be regarded as just another choice to be made at the end of life. Such a ‘choice’ would have serious ethical, legal and social implications and cannot be regarded as compatible with palliative medicine, the object of which is to help terminally ill patients to live with peace and dignity until they die naturally. It is disingenuous of DID, who are (and have always been) a pressure group promoting euthanasia and assisted suicide, to use palliative care as a Trojan horse to further their ‘assisted dying’ agenda.

For continuous updates on issues
go to our website or Alex’s Blog at:
www.euthanasiaprevention.on.ca
www.alexshadenberg.blogspot.com

Euthanasia Prevention Coalition • P.O. Box 25033 London ON N6C 6A8

Tel 1-877-439-3348 / 519-439-3348 • Fax 519-439-7053 • info@epcc.ca • www.epcc.ca