Euthanasia Prevention Coalition

NEWSLETTER
IMPOSED DEATH

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Euthanasia Symposium in Ottawa - Register Today

The Euthanasia Symposium in Ottawa has a great line-up of speakers with an excellent venue.

The Euthanasia Prevention Coalition works hard to educate and support people who share our concerns for vulnerable Canadians. This is the third euthanasia symposium that we have sponsored, the other two being in Toronto and London. We are committed to providing the most relevant information to enable you to make a difference.

Please, read the information in the Euthanasia Symposium promotion pamphlet and consider registering today.

Petitions campaign will culminate in Ottawa

The petitions to the *House of Commons — Protecting People With Disabilities: The Supreme Court of Canada Latimer Decision* continue to pour into the office as we near the presentation at the parliamentary lunch on October 18th. We have received more than 25,000 signatures.

Wesley Smith, the keynote speaker at the Euthanasia Symposium and author of the award winning book *Culture of Death: The Assault on Medical Ethics in America*, will be addressing the members of parliament at the parliamentary lunch. We know he will effect our elected representatives.

We need your help to make both of these events a success.

If you plan to attend the Euthanasia Symposium, then try also to bring a friend. If you can't attend the Symposium then please consider donating to allow a student to attend.

We need many people to help us by donating toward the cost of the parliamentary lunch. ie. The cost for the travel and honorarium for the speaker is prohibitive but necessary.

Court Upholds State Law Barring Assisted Suicide

Unanimous: Court cites danger to vulnerable Alaskans

By: Sheila Toomey and Ann Potempa
Anchorage Daily News: September 22, 2001 (edited)

Alaskans have no constitutional right to assisted suicide despite a constitutional and courts that strongly support individual liberty and personal privacy, the Alaska Supreme Court ruled Friday.

In a unanimous decision written by Justice Alex Bryner, the court upheld a state law that says helping someone else kill themselves is manslaughter.

Killing yourself unassisted is not against state law.

In its decision, the court cited the state's long history of opposition to assisted suicide and the danger that vulnerable Alaskans who are depressed or disabled might be pressured into dying when they don't really want to.

Friday's decision ended a long, emotional case where both sides claimed the highest principles of civil rights supported their position.

The court concluded that in an imperfect society the right of the vulnerable to be free from deadly coercion trumps the right of the terminally ill to have help dying.

Quoting from a New York task force report that rejected assisted suicide in that state, Bryner wrote, "Public policy considerations of assisted suicide must include a recognition that our society is one that ... frequently judges others on the basis of physical and mental disabilities, race, ethnicity, social-standing, and other factors unacceptable in life-valuing decision-making."

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Kevin Sampson and Janice Kastella, both terminally ill, filed suit in 1998 asking that their doctors be declared exempt from the manslaughter statute and be allowed to legally help them die. Sampson, a state auditor, had Aids, and Kastella, a neurologist, had cancer. Both have since died.

Compassion in Dying, a national group that promotes assisted suicide laws, initiated the suit. Group leaders picked Alaska because our constitution strongly endorses individual rights, according to its Web site.

Anchorage attorney Robert Wagstaff, who with Compassion in Dying continued the fight as a class action after Sampson and Kastella died, said he was disappointed at the decision but not necessarily surprised.

"We recognized going into this that it's a long-term issue of civil rights, and like the civil rights movement, it's not one case or one battle. There are often setbacks, but you keep going forward."

Because the case dealt with state law only, it cannot be appealed to the federal courts.

Wagstaff argued that a very narrow, regulated exception could safely be carved in the law that would allow physicians to assist adult, mentally competent, terminally ill people near death to end their lives with dignity.

The state, several medical organizations and the Alaska Catholic Conference entered the case opposing the exception. The Alaska Civil Liberties Union and Compassion in Dying supported Sampson and Kastella.

Those in favour of allowing doctor-assisted suicide said it is like the right to have an abortion or the right to dress as one chooses, both of which have been upheld by the court.

Bryner did not agree.

The manslaughter law does not restrict a person's individual right to end his own life, the ruling says. It only regulates the conduct of others wishing to assist him.

The state successfully argued that "the terminally ill are a class of persons who need protection from family, social, and economic pressures, and who are often particularly vulnerable to such pressures because of chronic pain, depression, and the effects of medication," Bryner wrote.

Assistant attorney general Eric Johnson, who represented the state, said this was his major concern. An assisted suicide law would not only be used for "those few heartbreaking cases we can all sympathize with," Johnson said.

"It's not just going to be used for the person you are confident has a nice, completely supportive family. It could be used by a family member who wants a person out of the way because they want their money. ... We don't want disadvantaged people to have coercion or pressure of any king."

Kent Autor, president of the Alaska chapter of Compassion in Dying, said doctors should be legally able to assist terminally ill adults who choose to hasten their deaths.

"They should not have to use violent means like a gun or a knife," he said.

Attorney Bob Flint, who argued against assisted suicide for the Catholic Conference, said what the dying really need is good medical care to ease their suffering and "the support and companionship of their neighbours, their family and friends."

"The Catholic Church has been in the compassionate dying business for 2,000 years," Flint said. "Church people are no strangers to suffering. But there are principles that just don't allow us to kill people. It's that simple. We don't doubt the motives of the other side. We just disagree with them."

Friday's ruling does not mean that laws allowing doctor-assisted suicide would be unconstitutional if passed. It's just not an inherent or constitutional right, the court ruled.

"We recognize that Sampson and (Kastella) have raised close and difficult issues," Bryner wrote. "But these issues flow quickly away from questions of the law and lapse seamlessly into questions of morality, medical ethics, and contemporary social norms. Because the controversy surrounding physician-assisted suicide is so firmly rooted in questions of social policy, rather than constitutional tradition, it is a quintessentially legislative matter."

The Euthanasia Prevention Coalition is encouraged by the decision of the Alaska Supreme Court. We consider the wording of the ruling to be very wise. This decision should help us defend vulnerable people in future cases.

The decision can be found online at: www.iaetf.org

"Futile Care and its Friends"

Hospitals — and legislators — want to decide when your life is no longer worth living. (edited)

By: Wesley J. Smith
July 23, 2001 - The Weekly Standard

When John Campbell's teenage son Christopher become comatose after a car accident in 1994, the last problem Campbell expected was obtaining proper medical treatment for his son. Campbell, a corporate executive, had excellent health insurance and was convinced Christopher would receive the best of care. But then something awful happened. One month after the accident, Christopher developed a burning fever. When his temperature reached 105 — and rising — Campbell asked the attending nurse why his son was not being treated for the condition that now 'hreatened his life. He soon found out: Christopher's doctor was out of town and the on-call physician had refused to order care. The nurses told Campbell they were helpless to act on their own.

Campbell demanded to speak with the doctor. It took hours before the nurses were able to reach him on the phone. By then Christopher's fever had worsened to 107 degrees. "He was literally burning up," Campbell recalls. "I knew that if something was not done, he would die."

Campbell demanded treatment to reduce his son's fever. At first, the doctor refused. "He actually laughed," Campbell recalls. But the distraught father wouldn't give up: "I used every ounce of persuasion I had in me." Finally, reluctantly, the doctor ordered the nurses to provide fever-reducing medicine, and the fever subsided.

Christopher was completely unresponsive for more than four months after the fever incident. Then, against medical expectations, he awakened. Today, after years of arduous rehabilitation, he lives with his parents, a disabled young man who counsels troubled teenagers and who, with his father's help, created a foundation that feeds 30 hungry African children breakfast 365 days a year. But had Campbell not successfully pressured the doctor into saving Christopher's life, none of that would have happened.

The physician's refusal to provide Christopher desired life-sustaining treatment was an early application of a relatively new bio-ethical theory that has since swept the Western Medical world. "Futile care theory" holds that when a physician believes the quality of a patient's life is too low to justify life-sustaining treatment, the doctor is entitled refuse care as "inappropriate" — even if the treatment is wanted. It is the equivalent of a hospital putting a sign over its entrance stating, "We reserve the right to refuse service."

Of course, doctors should not be required to provide physiologically futile treatment. For example, if an ulcer patient demands chemotherapy, doctors should refuse, since the desired "treatment" would not improve the ulcer at all. But "Physiological Futility" of this sort is not the essence of contemporary futile care theory. Rather, in medical futility bio-ethicists and doctors unilaterally determine when the quality of a human life, or the cost of sustaining it, makes it not worth living.

Proponents of futile care theory often cite tube feeding for patients in a persistent vegetative state as an example of "futile" or "inappropriate" treatment. Let's analyse this. What is the medical purpose of "artificial nutrition"? It keeps the body functioning. Why do many futilitarians wish to authorize doctors to refuse such treatment? Not because it doesn't work — but because it does. Thus in futile care theory the treatment itself isn't denigrated as futile — the patient is.

One way patients or families currently thwart futile care impositions is by threatening to sue. To counter this threat, futilitarians are moving on two fronts to all but guarantee that courts will ultimately acquiesce to futile care theory. First, in hospitals nationwide they are quietly promulgating formal, written futile care protocols that establish procedures under which wanted treatment can be refused. Second, they are beginning to place language in federal and state legislation that would stamp the government's imprimatur upon the core principles of futile care theory.

For obvious reasons, hospitals don't hold press conferences to announce the institution of futile care protocols. Thus no one actually knows how many institutions across the nation have decided to impose futile care theory on unsuspecting patients, but there is little doubt that many have. In 1996, the *Journal of the American Medical Association* reported the several Houston hospitals had cooperatively created a medical futility policy designed to establish "professional integrity and institutional integrity" as a counterbalance to "patient autonomy." Ethics committees were granted the power to decide whether life-sustaining treatment should be provided as requested or withdrawn over patient/family objection. Once the ethics committee rules, the matter is settled, and all further "inappropriate" care may be terminated unilaterally. The Mercy Health System, a group of Philadelphia-area Catholic hospitals, instituted a similar futility program last year, described in "Time for a Formalized Medical Futility Policy," published in the July/ August 2000 *Health Progress*. And in an article on medical futility in the Fall 2000 *Cambridge Quarterly of Health Care Ethics*, the authors reported that 24 out of 26 California hospitals they surveyed "defined nonobligatory treatment" in terms that were not "physiology based."

One of the stated purposes behind these hospital protocols is to thwart patients' ability to obtain a judicial order requiring the continuation of life-sustaining care. As the *Cambridge Quarterly*

authors put it, "Hospitals are likely to find the legal system willing to defer to well-defined and procedurally scrupulous processes for internal resolution of futility disputes." In other words, the strategy is to convince judges that, as mere lawyers, they are ill-equipped to gainsay what doctors and bio-ethicists have already decided is best.

As if that weren't enough cause for alarm, federal and state legislation is now being introduced that would explicitly empower doctors to deny life-sustaining treatment against the will of patients or their families. The most blatant example is found in Senator Arlen Specter's 171 page "Health Care Assurance Act," which seeks to expand health coverage for children and disabled people, among many other provisions. Buried deep in the bill is Title VI, which authorizes patients to consent or refuse medical treatment. That's fine. But the kicker comes in subsection B(ii), which is steeped in the lexicon of futile care theory:

> Treatment which is not medically indicated. — Nothing in this subsection shall be construed to require that any individual be offered, or to state that any individual may demand, medical treatment which the health care provider does not hae available, or which is, under prevailing medical standards, either futile or otherwise not medically indicated. [Emphasis added.]

As currently written, the bill would be a disaster for the most vulnerable and defenceless among us: patients who are dehumanized and viewed as parasite drains on limited health care resources. Indeed, imagine the different fate that would have befallen Christopher Campbell had the doctor who refused to treat his fever been empowered by federal law to tell his father that sustaining the life of a persistently comatose patient was "not medically indicated under prevailing medical standards."

In California, futile care theory has already been legalized. A review of language recently put into the Probate Code finds that a "health care institution may decline to comply with an individual health care instruction or health care decision that requires medically ineffective health care or health care *contrary to generally accepted health care standards applicable to the health care provider or institution*." [Emphasis added] In other words, if an institution defines certain types of wanted life-sustaining treatment as contrary to their internal standards, doctors can refuse to render the care. At that point, the doctor must cooperate with the transfer of the patient to another institution and continue to provide the care until the transfer "or until it appears that a transfer cannot be accomplished." Presumably, if no other hospital agrees to take the patient, the non-treatment decision can be imposed unilaterally.

Why is this happening? The usual bio-ethical rationale for imposing medical futility on defenceless patients is "distributive justice" - ie., a Montana hospital should deny Grandma Jones wanted life-sustaining antibiotics or respirator care so society can provide health benefits to Little Suzy in Appalachia. Thus it is hardly surprising that Senator Specter included an explicit futile care provision in legislation designed to expand access to heath care.

Yet ironically, imposing futile care theory on patients will not save much money, since end-of-life care constitutes only about 10 percent of total health care expenditures. Futilitarians know this, of course — which is why some already advocate restricting access to "marginally beneficial care" once the futile care fight is won. And what is marginally beneficial care? A few years ago Dr. Donald J. Murphy, a leader of the futile care movement, gave me the example of an 80 year old woman requesting a mammograms.

Thus medical futility is not an end but rather the beginning of a thousand mile journey leading directly to society-wide health care rationing — a euphemistic term for medical discrimination, based on subjective quality of life criteria, against patients who are elderly, expensive to care for, disabled or dying. Eventually, this will include all of us. We ignore the threat of futile care theory at our own peril.

The Life-Protecting Power of Attorney for Personal care is designed to protect you from those who might deem your medical care or your life to be futile. Order your copy from the Euthanasia Prevention Coalition at: 1-877-439-3348.

Report: Canadian Exit Bag in Australia

Dear Alex

Apologies for not replying sooner about the infamous plastic bag promoted by the death lobby. Wesley Smith spoke about the bag and displayed one at some of the meetings he addressed for us while in Australia. we had arranged a series of capital city talks as well as a weekend conference in Melbourne. He was reported on national TV and in The Australian, a national newspaper. As a result the Minister for Customs, Senator Chris Ellison announced that the government would place a ban on its importation. A customs officer visited Wesley when he was in Brisbane to get details of the bag and it's use.

At this stage I am going to write to Minister Ellison to ask about the outcome and I'll let you know when his response arrives.

Margaret Tighe - Australia

The Euthanasia Prevention Coalition has asked the RCMP to investigate the distribution of the Exit Bag - Suicide Kit in Canada and world wide by the Right to Die Society of Canada.