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## Assisted-Suicide Ruling Wide Open to Appeal

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A federal judge threw out the U.S. Department of Justice determination that federally controlled substances cannot be used for the non-medical purpose of doctor-assisted suicide in any state, including Oregon which has legalized the practice. District Court Judge Robert Jones issued his contentiously worded opinion yesterday. He claimed that what can be considered a “medical purpose” under the federal Controlled Substances Act should be determined state by state rather than by everyday usage and the medical profession itself.

Through this act of judicial revision, Judge Jones has left unprotected vulnerable Oregon patients who can be given assisted suicide with federally controlled substances instead of being given the medical care they need and deserve. The Oregon law allowing assisted suicide functions by excluding doctor-assisted suicide from the normal oversight and safeguards of medical practice. It forbids the medical profession to enforce medical ethics when it comes to this practice and this practice alone; it disallows medical malpractice suits once the patient is overdosed; and it makes it illegal for doctors to even call assisted-suicide “suicide.”

In reaching its 1997 determination that assisted suicide is not a right protected by the Constitution, the U.S. Supreme Court noted that the American Medical Association not only does not consider assisted suicide medical, but considers it “incompatible with the physician’s role as healer.” The American Nurses Association considers the opposition to assisted suicide the cornerstone of medical ethics. All credible medical organizations declare assisted suicide unethical and a danger to society and therefore not a part of medical practice. The Supreme Court noted that allowing the legalization of assisted suicide would undermine the trust needed in the doctor-patient relationship. Even in Oregon assisted suicide is not actually defined as medical and is set apart from normal medical practice.

In 1997, when the Oregon assisted-suicide law became effective, Drug Enforcement Agency director, Thomas Constantine, did a careful review of the assisted-suicide issue. He determined that assisted suicide is not a medical purpose under the Controlled Substances Act. His finding was consistent with wording found in the Supreme Court’s discussion earlier that year of the incompatibility of doctor-assisted suicide and the physician’s role as healer. Attorney General Janet Reno, however, threw out his ruling and declared that the meaning of the term “medical” was up for grabs and could have different meanings for different states. Such an approach could

result in dismantling of federal authority. It could result in a single federal law being transformed by the states into what would amount to 50 different laws with 50 different meanings.

Judge Jones's judicial revision allowing the English language to be redefined state by state as a means of altering federal law, lays itself wide open for appeal. In the meantime, patients such as Kate Cheney, who was determined to be demented and under pressure by a coercive family and who was nevertheless given assisted suicide by Kaiser Permanente HMO in Oregon, remain unprotected. What Oregon patients need to know while awaiting an appeal that will eventually wind its way to the U.S. Supreme Court is that no one needs assisted suicide anyway. Doctors can treat pain and other symptoms of serious illness without overdosing patients with deadly drugs.

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