PCC PHYSICIANS FOR COMPASSIONATE CARE NEWS
Affirming An Ethic That All Human Life is Inherently Valuable

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William M. Petty, MD, New PCC President

Doctor William Petty was elected as the new president of PCC. Dr. Petty is a highly regarded oncologic surgeon. He has been vice president of PCC since its beginning days and is one of the founding members of our organization. He had the foresight to be among the parties who filed the first legal case against the assisted suicide law in Oregon in 1994. As well as being well informed on the problems of assisted suicide in Oregon, he is an expert in palliative care and has organized the PCC yearly Compassionate Care Conferences, which have been cosponsored by Providence Health Care System.

Outgoing PCC president, Doctor Gregory Hamilton, will remain active in PCC as Senior Scholar for the organization. Doctor Petty has asked him to continue in his role of spokesman to the media. Dr. Kenneth Stevens, Professor and Chairman of Radiation Oncology at Oregon Health Sciences University, will take Dr. Petty's place as vice president.

ALASKA COURT WILL DECIDE ON ASSISTED SUICIDE APPEALS CASE

Plaintiff's Attorneys Claim the Current Alaska Law that Prohibits Assisted Suicide is "Restrictive" and Defies the State's "Privacy Act"

Physicians for Compassionate Care's Supreme Court Brief Demonstrates that Assisted Suicide is Not a "Private Act": It Endangers the Public

The case, Kevin Sampson and Jane Doe vs. State of Alaska, before the Alaska Supreme Court, was filed in 1998. The plaintiff's have both died and the Superior Court of Alaska decided against the plaintiff's; however, the case was appealed and was heard by the Alaska Supreme Court in November, 2000.

The plaintiff's attorney argued that an Alaska state law that sanctions anyone who becomes accomplice to another person's suicide is too "restrictive," claiming that the law is against Alaska's Privacy Act, and therefore, may be unconstitutional.

The Alaska law (AS 11.41.120) is a strong deterrent to assisted suicide, because it is a felony for any person, including a doctor, to become an accomplice in another person's suicide. The law states any person who "intentionally aids another person to commit suicide" is in effect guilty of manslaughter.

Eric Johnson, Assistant Attorney General, defended the Alaska law and pointed out that seriously ill individuals would be subject to social and economic pressures. "We as a society value equality, and that means valuing disabled lives (the same) as others," Johnson told the Anchorage Daily News after the hearing.

The assisted-suicide activist group, Compassion in Dying, was joined by the American Civil Liberties Union in promoting the acceptance of assisted suicide in Alaska. Both groups submitted briefs supporting assisted suicide, claiming it is a "private act."

Physicians for Compassionate Care, in its Amicus Curiae supporting the Superior Court in its ruling to protect the status of Alaska law (AS 11.41.120), pointed out that, "assisted suicide is not a private action, but takes place in a complex medical, social and economic setting. The social and institutional nature of doctor-assisted suicide subjects the discouraged or anxious patient to influence and coercion."

The Alaska Supreme Court is expected to make a decision on the case sometime during the first half of 2001.

Brief of Amicus Curiae, Physicians for Compassionate Care in Support of Appellee, State of Alaska

Summary of Argument

The following is an excerpt from the "Summary Argument" of PCC's Amicus Curiae, which is the formal legal argument presented to the Alaska Supreme Court concerning the appeals case of Kevin Sampson and Jane Doe vs. State of Alaska.

"Experience with doctor-assisted suicide in the state of Oregon, as in the Netherlands, reveals that assisted suicide allowed in the medical setting is not a private act. Doctor-assisted suicide takes place in a complex medical, social, and economic system, making the individual patient vulnerable to adverse influence. It creates conditions allowing family members and others to pressure the patient to commit assisted suicide, as has already happened in Oregon. Institutionalization of assisted suicide unfairly discriminates against vulnerable individuals and puts seriously ill individuals contemplating suicide at dangerous and unequal risk of death by failing to provide equal protection of their lives. If Alaska were to relinquish its right to prohibit physician-assisted suicide, one vulnerable class of individuals, those labeled 'terminally ill,' would thereby be devalued and would no longer be afforded the same protection against assisted suicide which other Alaskans enjoy. This failure to assure equal protection would result in some of the depressed and mentally infirm who are labeled terminally ill receiving assisted suicide instead of medical care, which has already happened in Oregon, and as is common in the Netherlands, even among those who are not labeled 'terminally ill.'

"Institutionalization of assisted suicide not only has an adverse effect on a particular individual who may feel like giving up on life; it also has a harmful effect on society and its general welfare and puts other individuals at risk. The harmful effect on society derives from the fact that physician-assisted suicide is not a private act, but takes place in a complex medical, social, and economic system. Within this delicate, interactional context, as observed in the Code of Medical Ethics, Sec. 2.211, overthrowing laws protecting the public against doctor-assisted suicide is destructive to the doctor patient relationship, proves impossible to control, and poses serious societal risks. It creates an economic environment with institutional incentives favoring suicide over medical care. It is impossible to adequately monitor, as demonstrated by failed attempts to monitor the experience in Oregon. Lacking adequate monitoring, it is impossible to regulate and control.

"Any illusion that assisted suicide could be confined to self-administered oral overdose quickly dissipates once the practice is allowed. Lethal injection must necessarily also be allowed for those who cannot quickly swallow the contents of 90 or so capsules it takes to commit assisted suicide or who have failed in their assisted-suicide attempt, as has been demonstrated in the case of Patrick Matheny in Oregon and previously in the Netherlands. The inevitability of the introduction of lethal injection or infusion, once the protection against assisted suicide is overridden for one class of patients, makes it even more clear that institutionalized assisted suicide gives

power and control to the doctor and to a complex medical, economic, and social system, not to an individual in an hypothetically 'private' and 'autonomous' act."

"Once a patient involves a physician in assisted suicide, it becomes abundantly clear that the assisted suicide is not a 'private' and fully 'autonomous' action. Doctor-assisted suicide takes place in a complex medical, social and economic setting and opens discouraged or anxious patients to adverse influence and coercion. It discriminates against a vulnerable class of individuals, those labeled 'terminally ill.' It further endangers the mentally ill and infirm and/or alcoholics and other groups with a differentially high suicide rate. And, it endangers not only the individual contemplating assisted suicide, but also proves harmful to society. It is destructive to the doctor-patient relationship, is impossible to control and poses serious societal risks. Clearly, Alaska has the right and the responsibility to uphold its laws protecting its citizens against the danger doctor-assisted suicide poses to vulnerable individuals and to the general welfare of society."

PCC Senior Scholar, Dr. Gregory Hamilton, composed the testimony used in the "Brief of Amicus Curiae, Physicians for Compassionate Care in Support of Appellee, State of Alaska." Each point of fact is documented with extensive references, which can be found in the full testimony on the PCC website (www.pccef.org).

Hope After Pain Relief Promotion Act Stalled

U.S. Senate Democratic leadership allowed Sen. Ron Wyden's, D-Ore, maneuvers to stall the Pain Relief Promotion Act (PRPA), despite bipartisan and majority support of this bill designed to help ailing patients.

The PRPA would have gone a long way to protect doctors and patients by making it clear for the first time in federal law that aggressive pain management is legitimate medical care even if in rare instances it might lead to an increased risk to the patient. It provided for $5,000,000 per year for five years in federal grants for education and research about improved pain treatment and palliative care. And it re-clarified that assisted suicide is not a legitimate medical use of federally controlled substances. States which have passed laws similar to the PRPA have increased the per capita morphine use in their state by an average of 50% in the next year, demonstrating that doctors are reassured by such laws.

There is hope, however, that Oregon patients will once again be protected and cared for when they become suicidal, that they will no longer be handed a drug overdose by those few doctors who use controlled substances for the non-medical purpose of suicide. On a campaign stop in Oregon last May, President-elect Bush, told Oregonians he agreed with Drug Enforcement Administration Chief, Thomas Constantine's interpretation of the Controlled Substances Act (CSA). Constantine clearly stated that Oregon assisted-suicide doctors could not exempt themselves from federal law, which does not allow federally controlled substances to be used for any non-medical purpose, including suicide. President-elect Bush clarified that he would be willing to enforce the CSA the way it was written.

One of the factors that made the PRPA necessary during the previous administration was the unilateral move by US Attorney General, Janet Reno, who overruled Drug Enforcement Administration Chief, Thomas Constantine's intent to enforce the CSA. She did so after Constantine had correctly pointed out that assisted suicide is not a legitimate medical use of controlled substances and therefore is not allowed. Reno announced that the Justice Department would not suspend the DEA license of doctors who participated in assisted suicide under the Oregon assisted-suicide law. Doctors in Oregon, unlike doctors in any other state, were then, in effect, made exempt from federal monitoring under the CSA, if, and only if they participate in patient suicides by prescribing drug overdoses. Federally controlled substances remained disallowed for non-medical purposes for all other physicians across the nation.

There is an obvious distinction between the non-medical use of drugs for assisted suicide and that of the legitimate medical purpose of pain relief. The intended result of pain care is a comfortable patient. The intended result of giving a drug overdose is a dead patient.

While the time frame is unclear, there is every indication that the new administration will stand by the DEA's interpretation of the CSA, namely that Oregon doctors are not exempt from federal law regarding controlled substances.

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