

Supplement to Media Watch

Euthanasia & Assisted Suicide Debate in Canada

Annotated Historical Perspective on End-of-Life Decisions

Compiled & Annotated by Barry R. Ashpole Updated & Links Confirmed: 10.27.08.

1972 - The Canadian Parliament decriminalized suicide and attempted suicide.

June 1980 - The Canadian pro-euthanasia group Dying with Dignity was established.

1982 - Dr. Nachum Gal was charged with first degree murder for allegedly ordering a lethal overdose of morphine for an infant. Dr. Gal fled to Israel. The federal government was unable to have him extradited back to Canada. Two nurses involved with the infant's death were suspended from nursing for one year.

1983 - The (now defunct) Law Reform Commission of Canada released *Report on Euthanasia, Aiding Suicide & Cessation of Treatment*.

N.B. The Commission recommended against legalizing or decriminalizing voluntary euthanasia and aiding suicide. In 1987, the Commission released proposals for amending the Criminal Code, recommending that mercy killing be treated as second-degree murder ("ordinary murder") rather than as first-degree murder ("premeditated murder"). Second-degree murder would carry no fixed or minimum jail term.

1984 - The Canadian Hospital Association, the Canadian Medical Association and the Canadian Nursing Association issued 'A Joint Statement on Terminal Illness,' which established a procedure for Do Not Resuscitate (DNR) orders.

1990 - David Lewis, a Vancouver man living with HIV, claimed he had assisted eight friends, all suffering from AIDS, in committing suicide. In August 1990, Lewis committed suicide.

1990 - In *Malette v. Shulman*, the Ontario Court of Appeal upheld the right of a Jehovah's Witness to refuse life-saving blood transfusions and the principle that health professionals have a duty to respect such a refusal.

16 May 1991 - Private Member's Bill C-203 was introduced.

N.B. If passed, Bill C-203 would have protected a physician against criminal liability where the physician did not initiate or continue treatment at the request of the patient or where the physician did not prolong life, except at the patient's request. The Bill would also have protected a physician who administered treatment to a patient even though the effect of that treatment would hasten death.

Bill C-203 received second reading on 24 September 1991 and, subsequently, was referred to a Legislative Committee for consideration. The Committee began hearings 29 October 1991, but adjourned 18 February 1992 *sine die* (i.e., the matter was stayed permanently).¹

Something Missed or Overlooked?

This annotated historical perspective on end-of-life decisions summarizes notably "developments" – also highlighting those in other countries – that inform the euthanasia and assisted suicide debate in Canada. Please advise this office (contact information below) of any omissions or oversights ... so that future updates of this document will provide as complete an overview as possible. **Barry R. Ashpole**

19 June 1991 - Private Member's Bill C-261 was introduced.

N.B. If passed, Bill C-261 would have legalized euthanasia for a patient who requested it and who was suffering from an "irremediable condition." The Bill was debated at a second reading on 24 October 1991, but was dropped from the Order Paper.

1991 - Dr. Alberto de la Rocha was convicted of administering a noxious substance to endanger life when he administered injections of morphine and potassium chloride. The patient had asked Dr. de la Rocha to remove her breathing tube to end her suffering. The doctor received a suspended sentence and three years' probation. At a hearing of the Discipline Committee of the College of Physicians & Surgeons of Ontario, he pleaded guilty to professional misconduct. His license was suspended for 90-days.

1991 - The B.C. College of Physicians & Surgeons issued a statement opposing euthanasia following a review of the deaths of two patients of Dr. Peter Graff. A provincial coroner ruled that both patients had died from morphine overdoses and urged the College to review Dr. Graff's actions. The College ruled that the doctor's method of treatment was unacceptable. No criminal charges were laid.

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10 September 1991 - In Holland, the Rammelink Commission released findings from a comprehensive study of Dutch euthanasia practices.

N.B. Comparative studies were published in 1995 and 2001.²

6 January 1992 - The Quebec Superior Court ruled in the case of Nancy B. (a pseudonym), a woman suffering from an incurable disease. The Court ruled that turning off her respirator at her request, and letting nature take its course, would not be a criminal offence. Nancy B. died in February 1992.

30 January 1992 - An unnamed Ontario surgeon was charged with second-degree murder in connection with the death of a seriously ill cancer patient who allegedly died of a cardiac arrest after having been administered morphine and potassium chloride. The physician received a three-year suspended sentence after pleading guilty to a charge of administering a noxious substance to endanger life. The second-degree murder charge was withdrawn.

August 1992 - Scott Mataya, a Toronto nurse who had originally been charged with first-degree murder in the mercy killing of a terminally ill patient, entered a guilty plea to a lesser charge of administering a noxious substance to endanger life. Mataya received a suspended sentence and he was ordered to surrender his nursing licence.

1992 - The Euthanasia Prevention Coalition of British Columbia (EPCBC) was established.

22 March 1993 - Federal MPs defeated a motion that called upon the government to consider the advisability of introducing legislation on the subject of euthanasia and ensuring that those assisting terminally ill persons who wish to die will not be subject to criminal liability.

April 1993 - An Ontario physician who gave a lethal injection to a seriously ill cancer patient received a three-year suspended sentence after pleading guilty to a charge of administering a noxious substance to **endanger life. The original charge of second-degree murder was withdrawn.**

30 September 1993 - In a five-to-four decision, the Supreme Court of Canada dismissed an appeal by Sue Rodriguez in which she challenged the validity of the Criminal Code, which prohibited an assisted suicide, under the Canadian Charter of Rights & Freedoms. Rodriguez had amyotrophic lateral sclerosis (ALS).

N.B. Sue Rodriguez committed suicide with the assistance of a physician on 12 February 1994. The death was investigated by police, but no criminal charge was laid.

3 November 1993 - The B.C. Ministry of the Attorney General issued guidelines for Crown Counsel with respect to charging persons involved in cases of active euthanasia and/or assisted suicide.

14 February 1994 - Justice Minister Allan Rock stated that the issues of cessation of treatment and assisted suicide should be considered by Parliament.

15 February 1994 - Prime Minister Chrétien stated that MPs would have a free vote on whether to legalize doctor-assisted suicide.

16 February 1994 - Private Member's Bill C-215 was introduced.

N.B. Bill C-215 would have permitted physician assisted suicide upon the request of a terminally ill patient. The Bill was dropped from the Order Paper 21 September 1994.

23 February 1994 - A Special Senate Committee was established to examine and report on the legal, social and ethical issues relating to euthanasia and assisted suicide.

N.B. The Committee issued *Of Life & Death – Final Report* in June 1995, recommending that euthanasia and assisted suicide should not be decriminalized. A minority of the Committee members recommended the creation of a separate offense of compassionate homicide that would carry a less severe penalty than a mandatory life sentence. The report also identified additional issues with regard non-voluntary euthanasia and end-of-life decisions, for example those involving persons in persistent vegetative states.³

November 1994 - Robert Latimer was convicted of second-degree murder in the asphyxiation death of his severely disabled 12-year-old daughter, Tracy. Latimer was sentenced to life in prison with no eligibility for parole for ten years. Subsequently:

February 1997 - The Supreme Court of Canada ordered a new trial for Latimer.

December 1997 - Latimer was sentenced to two years less a day.

November 1998 - The Saskatchewan Court of Appeal confirmed the conviction of Latimer and upheld the original sentence.

January 2001 - The Supreme Court of Canada upheld the decision of the Saskatchewan Court of Appeal.

March 2008 - Latimer was released on parole.

1994 - National Angus Reid Poll found that 74% of Canadians believed a medical doctor should be able to legally help a terminally ill patient end their life if this is what they want.

27 October 27 1996 - The Liberal Party of Canada, at their convention in Ottawa, passed a resolution endorsing legalizing euthanasia.

May 1997 - Dr. Nancy Morrison was charged with the first-degree murder of a terminally ill patient who had been removed from active life support.

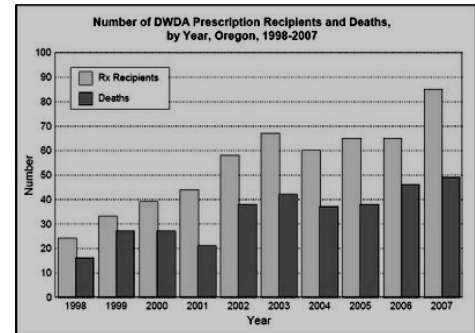
N.B. In February 1998, a Nova Scotia judge found that there was not sufficient evidence for a jury to convict Morrison and refused to commit her to trial.

1997 - Canadian researchers published the findings of a comparative survey of physicians, terminally ill cancer patients, and the general population.

N.B. A marked polarization of attitudes was observed. The researchers suggested that legalization of euthanasia and/or physician suicide would be "highly divisive and controversial from a societal perspective."⁴

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27 October 1997 - The State of Oregon enacted its Death with Dignity Act, the first such legislation in the U.S., which allows a terminally-ill patient to end their life through the voluntary self-administration of lethal medications, expressly prescribed by a physician for that purpose.⁵



25 March 1998 - Motion M-123, calling for a special committee to review the provisions in the Criminal Code dealing with euthanasia and physician-assisted suicide, was rejected by the House of Commons.

N.B. The motion was introduced in November 1997 by Svend Robinson, who had failed on two occasions to introduce a Private Member's bill to legalize physician-assisted suicide (in 1992 and 1994).

19 June 1998 - The Canadian Medical Association (CMA) issued a policy statement opposing the legalization of euthanasia and assisted suicide. The CMA urged its members to uphold the principles of palliative care.⁶

N.B. In November 2007, the CMA made minor changes to its policy, but reaffirming the association's position. The College of Family Physicians of Canada similarly opposed legalization of euthanasia and assisted suicide.⁷

In October 2005, a group of Canadian physicians and lawyers issued a joint statement opposing legalization of euthanasia and assisted suicide.⁸

June 2000 - A Senate Subcommittee studied developments with respect to recommendations made in *Of Life & Death* (1995), and issued *Quality End-of-Life Care: The Right of Every Canadian*.⁹

N.B. Authors of the Subcommittee report concluded that the calls for a more compassionate and a more comprehensive approach to end-of-life seemed to be assigned a low priority in the existing health care system, and that there had not yet been the required shift of resources to end-of-life care.

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11 December 2001 - The Swiss National Council confirmed the assisted suicide law, but maintained the prohibition of voluntary euthanasia. Physician and non-physician suicide was legalized in 1941.

1 April 2002 - Holland legalized euthanasia. There was no change in practice, as the new law codified rules and requirements that had developed over the past 25 years.

16 May 2002 - Belgium legalized euthanasia.

September 2004 - Marielle Houle was charged with aiding and abetting the suicide of her 36-year-old son, Charles Fariala. Houle pleaded guilty to aiding and abetting the suicide of her son, and was sentenced to three years' probation

November 2004 - Evelyn Martens was acquitted of aiding and abetting the suicides of two women that took place in 2002.

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31 March 2005 - Terri Schiavo, a 41-year-old brain-damaged woman who became the focus of a national right-to-die battle, died two weeks after doctors removed the feeding tube that had sustained her for more than a decade.

2 June 2005 - Senator Sharon Carstairs published *Still Not There: Quality End-of-Life Care: A Progress Report*, which examined progress on implementing the recommendations made in the Senate of Canada Committee reports tabled in 1995 and 2000.¹⁰

N.B. Senator Carstairs called for a renewed commitment to a national strategy on palliative and end-of-life care. She recommended that research be undertaken into how many people are requesting euthanasia, why it is being requested, and whether there are any alternatives that might be acceptable to those making the requests.

June 2005 - Private Member's Bill C-407 was introduced.

N.B. In advance of the second reading of Bill C-407 (26 October 2005), a group of 61 physicians and 39 lawyers issued a public warning not to legalize euthanasia or physician assisted suicide in Canada. The Bill died on the Order Paper with the dissolution of Parliament in November 2005.

July 2005 - André Bergeron was charged with the attempted murder of his spouse, Marielle Gagnon, who had Friedreich's ataxia. Bergeron was sentenced to three years' probation for aggravated assault.

22 November 2006 - The Canadian Hospice Palliative Care Association released 'Euthanasia, Physician-Assisted Suicide & Quality End-of-Life Care,' a discussion document.¹¹

September 2006 - Raymond Kirk pleaded guilty to aiding the suicide of his wife. Because of a back spasm, Patricia Kirk was in tremendous pain, and various specialists were unable to diagnose the problem or provide comfort. The Ontario Court of Justice suspended Kirk's sentence and imposed a sentence of three years' probation.

1 May 2007 - The Canadian National Palliative Care Survey, one of the largest and most comprehensive of its kind, found a large proportion of patients receiving palliative care for cancer would consider making a request for physician-assisted suicide if it were legally available ... but, only if their worst fears about pain and symptoms actually came true.¹²

N.B. Authors of an article in a 2007 edition of the *Canadian Journal of Public Health* observed that public opinion polls on euthanasia should be interpreted in the light of the wording of the question. Education of the population concerning euthanasia, and other end-of-life decisions, would be an important prerequisite to engage in public debate concerning the legalization of euthanasia.¹³

May 2007 - Stéphan Dufour was accused of helping his uncle, Chantal Maltais, to hang himself. Mr. Maltais had muscular dystrophy and was in a wheelchair. The Crown laid charges against Mr. Dufour under section 241 of the Criminal Code (counselling or aiding suicide).

N.B. Dufour was scheduled to go to trial in the Fall of 2008.

June 2007 - A B.C. court sentenced Dr. Ramesh Kumar Sharma for aiding the suicide of Ruth Wolfe, a 93-year-old woman suffering from heart problems, by prescribing her a fatal dose of drugs. The court imposed a conditional sentence of two years less a day to be served in the community. Dr. Sharma's licence was revoked by the B.C. College of Physicians & Surgeons.

July 2007 - The RCMP decided not to lay charges in the assisted suicide case of Elizabeth MacDonald, a Canadian with multiple sclerosis (MS) who died in Switzerland with the assistance of the organization Dignitas. Her husband, Eric MacDonald, was with her when she died. The RCMP stated that no infraction of the Criminal Code was committed in Canada.

30 January 2008 - The College of Physicians & Surgeons of Manitoba issued 'Withholding & Withdrawing Life-Sustaining Treatment,' a statement "to assist physicians, their patients and others involved with decisions to withhold or withdraw life-sustaining treatment."¹⁴

12 June 2008 - Bill C-562 (a slightly amended version of Bill C-407) was introduced.

N.B. Bill C-562 died on the Order Paper with the dissolution of Parliament in September 2008.

24 June 2008 - Sam Golubchuk died in a Winnipeg hospital before the Manitoba Law Courts could rule in a highly publicised legal action brought by Golubchuk's family to prevent doctors from removing their father from life support. Three doctors resigned, refusing to care for Golubchuk, on the grounds they were unnecessarily inflicting pain on an individual so close to death.

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1 October 2008 - The Governor of California signed into law the State's Right to Know End-of-Life Options Act, an amended version of physician assisted suicide Bills that failed in 2005, 2006 and 2007.

4 November 2008 - The State of Washington votes on the proposed Dying with Dignity Act (Initiative 1000), which is modeled on Oregon's Death with Dignity Act.

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Advocacy groups:

In favour:

1. Dying with Dignity <http://www.dyingwithdignity.ca/>

Opposed:

1. Compassionate Health Care Network: <http://www.chninternational.com/default.html>
2. Euthanasia Prevention Coalition of British Columbia: <http://www.epc.bc.ca/index.html>
3. Euthanasia Prevention Coalition (Ontario): <http://www.euthanasiaprevention.on.ca/>

Barry R. Ashpole
Beamsville, Ontario CANADA

'phone: 905.563.0044 / fax 905.563.0043
e-mail: barryashpole@bellnet.ca