

# End of Life Choice



Newsletter on current debates

## The Oregon Experience: is there a slippery slope

Neil Francis

*Oregon's Death With Dignity Act (DWDA) came into effect in 1997. The Hon Ken Smith, former Speaker of the Victorian Parliament (Liberal) and Neil Francis, then Director of YourLastRight, made a week long visit to Oregon in 2008 to meet with supporters and opponents of the legislation and find out how the law was operating. This is a summary of their report.*

"Once you let the genie out of the bottle, it's an inevitable [slippery] slope," stated Dr Bill Toffler, from St Vincents Providence Hospital in Portland, Oregon. Dr Toffler is the leader of a small group of doctors who remained opposed to the DWDA.

Dr Toffler, and his colleagues Dr Chuck Bentz and Dr Ken Stevens, had many yarns to "prove" what a disaster the law had been. Amongst their arguments were claims that terminally ill patients often suffered mental conditions--most notably depression--that would invalidate their request for assisted dying. I asked about the foundations of their fears.

"So your Act doesn't in any way require the doctor to assess the patient mentally?", I asked.

"Nope" was the immediate response from Dr Toffler. Dr Bentz silently shook his head in the negative.

But the claim is completely false. The Oregon Act applies only to "capable" dying patients: defined as "a patient [who] has the ability to make and communicate health care decisions." At least two doctors are explicitly required to assess the patient's capability, and, if either suspect that the "patient may be suffering from a

psychiatric or psychological disorder or depression causing impaired judgment", then the patient does not qualify and must be referred to counselling.

All other stakeholders we spoke with, including physicians, palliative and hospice care specialists, psychiatrists, legislators, regulatory authorities, researchers and family members of patients who had used the Act, rejected notions of so-called slippery slopes.

Ass Prof Barbara Glidewell, Director of Patient Relations, Palliative Care and Pastoral Care at Oregon Health and Sciences University (OHSU), and who had personally attended the qualification process for around half of all cases at that time, explained: ***"Before the law came into effect," she said, "some thought everybody would be coming to Oregon. Come one, come all! They'd be taking their trailers and coming. And that didn't happen."***

Ann Jackson, Executive Director of the Oregon Hospice Association for ten years before the law as well as during its first ten years of operation never thought the numbers would be high. "We were the only group that accurately predicted the numbers. It's not like people want to die!"

Dr Hugo Richardson, a Board-certified palliative care specialist at OHSU shared his own experience. "Before the law we saw many violent suicides of patients...who believed they had run out of options." In contrast, since the law came into effect "I have seen very few violent suicides...in fact none."

Prof Linda Ganzini, a psychiatrist and one of the world's most respected end-of-life-decisions researchers and who has authored many medical journal papers, was quite clear. "The idea that it would be vulnerable and disenfranchised people who would make the choices, that it would be because they could not get good treatment for their pain or for their symptoms, those haven't

been true," she reported.

Dr Peter Regan, the first doctor to prescribe under the Act (about six months after it came into effect), and Prof Nicholas Gideonse, who has also prescribed under the Act, unambiguously reject the notion that having choice poisons the doctor-patient relationship...another slippery slope objection put forward by Dr Toffler. Both argue strongly that the Act makes it far more conducive for patients and doctors to communicate well, without having to dance around certain topics or speak in 'code' when difficult issues arise.



Capitol Building, Salem, Oregon

Ann Jackson agrees. "When they bring up that one," (the option of using the Act) she said, "then we can talk about all the others." It's no wonder then that when I challenged Dr Toffler and his colleagues that the slippery slope claims they were making about the Act "causing" serious problems didn't stack up, he admitted "We can't show cause and effect. That's not what we are claiming," and later, "Can we prove cause and effect? Of course not."

***Oregon Senator Ginny Burdick put it well: "All the terrible things that opponents predicted were just that, nothing. None have come to pass."***

But she made an even more important point about the modest numbers of people using the Act. It's not just about those who use it, but for each one of those "many more hundreds if not thousands have got peace of mind because they know they have the law if they need it."

Neil Francis is the founder of [DyingForChoice.com](http://DyingForChoice.com)

# SAVES

South Australian Voluntary Euthanasia Society

*saves.asn.au*

Compassion for suffering  
The freedom to choose  
Add your voice to the call



SAVES was established in 1983 to campaign for legal, medically assisted choice in end-of-life arrangements.

The aim is to relieve suffering by providing choice for people at the end of their life. SAVES works in the community and with Members of Parliament to achieve law reform.

## SAVE-YA Syndicated Australian Voluntary Euthanasia Youth Advocates

Facebook: Support SAVE-YA Law Reform



A national youth lobby group which aims to provide a youth voice in support of legalising voluntary euthanasia in all States and Territories. Members

between ages 18 and 35 are encouraged to join, make contact with their local MP and inform them of their support for voluntary euthanasia law reform.

## Christians supporting choice for Voluntary Euthanasia

[christiansforve.org.au](http://christiansforve.org.au)

We are Christians who believe that, as a demonstration of love and compassion, those with a terminal or hopeless illness should have the option of a pain-free, peaceful and dignified death with legal voluntary euthanasia. The overwhelming majority of Australian Christians support choice for voluntary euthanasia.



## Lawyers for Death with Dignity

[saves.asn.au/lawyers](http://saves.asn.au/lawyers)

Lawyers for Death with Dignity acknowledges the need for people with profound suffering to have the legal choice for a medically assisted and dignified death. The current law says suicide is not illegal, but assisting suicide is. People in a terminal state may have profound, unbearable suffering and be in the undignified position of being unable to end their life without assistance. Advances in medicine have improved life expectancy, but South Australian law has not changed to reflect the often forgotten deterioration of quality of life that a longer life expectancy may bring.



## Doctors for Voluntary Euthanasia Choice

[drs4vechoice.org](http://drs4vechoice.org)



We are a national organisation of Australian medical practitioners, both current and retired, who are committed to having a legal choice of providing information and assistance to rational adults, who, for reasons of no realistic chance of cure or relief from intolerable symptoms, would like to gently end their lives. Assistance may be by doctor provision of medication for the patient to consume, or by doctor-administration.

## South Australian Nurses Supporting Choices in Dying

Facebook: SA Nurses Supporting Choices in Dying

We are a group of passionate nurses who believe in our patient's right to choose the end of life care that they wish. The group provides a forum for the nursing voice and

perspective on the legalisation of voluntary euthanasia and other patient choices in end of life care in South Australia.



## BREAKING NEWS BREAKING NEWS BREAKING NEWS

**OTTAWA — The Supreme Court of Canada on Friday struck down laws banning physician-assisted suicide for patients with “grievous and irremediable” medical conditions.**

The unanimous decision reverses the position taken by the court 22 years ago.

“The prohibition on physician-assisted dying infringes the right to life, liberty and security of the person in a manner that is not in accordance with the principles of fundamental justice,” the court wrote, adding that an absolute ban was not needed to ensure that vulnerable people are not coerced “to commit suicide at a time of weakness.”

Canadians are currently debating assisted dying. In June, Quebec passed legislation that would allow the practice, starting at the end of this year. Until the Supreme Court ruling on Friday, that legislation seemed likely to be overturned under federal criminal law.

In August, the Canadian Medical Association altered its long-established opposition to doctors assisting in suicides. Its new policy allows physicians, within the bounds of laws, “to follow their conscience when deciding whether to provide medical aid in dying.” (NY Times, 7.2.15)