

# Hemlock Society of Florida, Inc.

# Beacon

*Shedding Light on the Right to Die  
for the Terminally Ill in Florida*

**Spring-Summer 2011**

## *President's Letter*

Dear members and friends,  
I would like to take this opportunity to thank all of you who have donated to the Hemlock Society and Foundation of Florida following our fall request. Although I am the first to balk at solicitations for money, I know that it does take money for any non-profit organization to function and, basically, stay in business. Please know that your ongoing support is greatly appreciated. All of the Directors donate their time, most of them for many years. As you are aware, we did hire an Executive Director a year ago. He is currently on a sabbatical, although he is available to respond to questions. Other major expenses for the Hemlock Society of Florida are the Beacon and the telephone. The 800 number for the Society is listed in all phone books in Florida. You might check your local phone directory to make sure we are listed. If not, let me know and I shall phone the company to determine why it

is not listed.

The other issue that concerns me is the lack of volunteers. I receive a number of calls each month asking if we have a Hemlock group in their area. Unfortunately, my answer continues to be "No but if you would like to start a group, I will be most happy to help you." I know many of you are up in years or have health problems which do not allow you to actively participate BUT you could make phone calls, send post-cards announcing meetings, etc.

An announcement to those of you who live in Southwest Florida: the Hemlock Society of Southwest Florida, Inc. has been dissolved. It does not affect your membership since all members living in that area have always belonged to the State chapter. Again, this chapter closure reflects lack of interest in working for the organization.

I would like to challenge each and every one of you to introduce a friend to the Hemlock Society. Ask him/

her to become a member and volunteer. Ben Wilcox, our Executive Director, and I are most willing to assist you in any way we can. We need younger members (age 45+) to carry on the work of this important and much needed organization.

*Donna*

Member  
of



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# Hemlock Society of Florida, Inc.

## Beacon Newsletter

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## HEMLOCK SOCIETY OF FLORIDA, INC.

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*Executive Director*

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# Letter from Executive Director

Dear Members and Friends of  
the Hemlock Society of Florida,

Can someone explain to me  
why we can't have a reason-  
able, rational conversation



about improv-  
ing the quality  
of dying in this  
country? And  
no, I'm not  
talking about a

conversation around the dinner  
table although we need that  
too. I'm talking about in our  
nation's Capitol and in our  
state houses.

Most disappointing of all to  
me was what happened earlier  
this year when the federal  
government dropped a new  
rule that would have allowed  
Medicare to cover end-of-life  
planning as part of an annual  
physical covered under the  
new health care law. The move  
came after press reports com-  
pared the rule to a similar  
proposal that came to be la-  
beled as "death panels" during  
the health reform debate.  
While the new rule would only  
have allowed coverage of  
"voluntary advance-care plan-  
ning," apparently the Obama

administration was fearful that  
it might trigger new charges of  
"government-encouraged  
euthanasia" as now House  
Speaker John Boehner once  
termed it.

As long as that sort of inflam-  
matory language is a part of  
the debate, we will never be  
able to objectively look at and  
take measured steps to im-  
prove what is inevitable for all  
of us-our death. I had hoped to  
find a member of the Florida  
legislature to file a bill this  
year patterned after a new law  
in New York called the "Pallia-  
tive Care Information Act." The  
law requires physicians who  
make a "terminal" diagnosis to  
offer to discuss with the patient  
their options for end-of-life  
care. This could include op-  
tions for pain management,  
hospice care as well as the  
possibilities for further life-  
sustaining treatment.

It seems like common sense  
and something that is already  
done, but apparently the  
number of physicians who do  
offer to discuss end-of-life  
options varies widely as does  
their ability and expertise.  
Many studies have shown that  
this type of discussion can  
reduce costly and aggressive  
yet futile treatments, improve  
the quality of remaining life for  
patients and result in more  
dignified deaths unencum-

bered by medical technology.

It seems to me that because of the benefits this law offers it should at least deserve to be discussed by the Florida legislature, even though the legislature is a pretty conservative bunch and tend to fall more on the “pro-life” side of issues. As it turned out, no one was willing to even sponsor this bill. I was told by the sympathetic legislators I spoke with that they already had enough “controversial” bills on their plate. So while the Florida legislature this year will be talking about a lot of issues, it won’t be talking about improving the quality of dying.

Fortunately not every state is like Florida and we are making slow and steady progress in other areas of the country where people are more willing to talk about how we die. In Vermont, “death with dignity” advocates have introduced a bill that would make Vermont the fourth state to allow doctors to prescribe some terminally ill patients a lethal dose of drugs they could use to end their lives. Newly-elected Governor Pete Shumlin is on record supporting the legislation. It’s not clear whether the bill will be voted on this year, but at least people are talking, probably disagreeing, but at least talking.

I’m going to keep asking the Florida legislature to talk about improving the quality of dying in this state because our citizens deserve it. They weren’t ready to have that conversation this year and they may not be ready to have it next year. But one day the time will be right and we’ll have a reasonable, rational conversation in Florida about how we can help people have a good life... and a good death.

*Ben*

Ben Wilcox  
Executive Director

# Final Exit Network Update

By Robert Rivas

Final Exit Network is engaged in legal battles on three fronts to defend the right to die and its members’ free speech rights.

In Northern Georgia, four Exit Guides are under indictment on charges of “assisting in a suicide” and racketeering. A decision is expected any day now on their motion to dismiss the indictment on a number of constitutional grounds, and the case will probably be appealed to the Supreme Court of Georgia even before a trial. A trial, if one is eventually necessary, is not likely to take place for a year or two, or perhaps even longer.

In Phoenix, Arizona, four Exit Guides have been indicted. Two elderly, infirm Exit Guides were terrorized into pleading guilty to minor charges in exchange for an assurance that they would not be sentenced to any time in prison. Two other Exit Guides are scheduled to stand trial on April 4, 2011 on charges of assisting in a suicide, tampering with evidence, and conspiracy.

In Atlanta, several Final Exit Network Exit Guides and a member (none of the indicted individuals) have filed a lawsuit in United States District Court against the governor and the attorney general of Georgia. They assert that Georgia’s statute prohibiting “assisting in a suicide” is being applied in violation of their First Amendment right to free speech. They seek to have the statute stricken down as unconstitutional. The lawsuit is in its early stages.

# BOOK REVIEW

by John McCormack

## Last Rights: Rescuing the End of Life from the Medical System (2006)

by Stephen P. Kiernan

Kiernan writes about a severe disconnect he found between where and how elderly wanted to spend their last days (at home with family) or where they actually spent them, in the hospital or nursing home.

**Statistics:** 60% of elderly die in a hospital  
25% of elderly die in a nursing home  
15 % die at home or elsewhere

In 1965 the Emergency Medical System was established to treat acute medical crises such as stroke, heart attack or car accidents. Forty years later the elderly population, in conjunction with the medical community, now use the same Emergency Medical System to treat acute problems arising out of mid- to long-term disabling conditions such as cancer or dementia. Once the elder enters the Emergency Medical System all direct influence by family or the health care surrogate is frequently ignored. At first home caretakers are relieved that their elder will have proper care and treatment. However, as Kiernan discovered, many end up angry and resentful because the family felt as though the patient's wishes were ignored.

What is to be done about this disconnect and who is responsible is the basis of Kiernan's interesting examples and discussion. His topic is of concern for us all.



# AROUND THE WORLD

## Current Right-to-Die Issues

**Poll - Australia** - A poll taken last fall found that three-fourths of those polled want to legalize euthanasia. The interesting outcome was that the older people are, the less likely they are to support the change. The largest age group showing support for a change in the law was those 45 to 65. Those most opposed to law change were aged 65 to 74.

**Poll - Canada** - In a recent poll in Canada the results were very similar to the Australian poll. The majority of Canadians favor legalization of voluntary euthanasia. The one exception would be a parent ending the life of a child suffering from a severe condition. The Quebecers had the highest support for legalization of voluntary euthanasia at 78% and the lowest was in Alberta at 43%. A large majority believe that legalization of euthanasia would allow people to have a better opportunity to ease their pain and establish clearer guidelines for doctors to deal with end-of-life decisions. Most Canadians agree with a doctor helping a patient to die if the patient is in a coma with no hope of waking and a patient who has previously requested aid-in-dying.

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**Australia** - Former Chief Minister Marshall Perron stated that legal euthanasia could prolong lives. He spoke at a public forum to rally support for a new bill before the Canberra Senate. He said that if the private members bill was passed, territories could again pass laws legalizing voluntary euthanasia. Mr. Perron stated that

many sick people are taking their own lives when they are still relatively healthy for fear their illness will make them incapable of doing so later. Mr. Perron said, "most of those people die in terrible, violent ways and they die alone." Once terminally ill people qualify for aid-in-dying, they tend to live longer than they otherwise would have without it.

Dr. David Gawler, director of surgery at Royal Darwin Hospital, is concerned that if a voluntary euthanasia law is passed the Aboriginal people will be reluctant to see a physician. He stated that "It's sometimes difficult to explain, because of the language barriers, what we're going to do in terms of operations. If you put on top of all of that the idea that doctors do kill people, then I think that compounds the problems which could cause a lot of fear amongst Aboriginal people." Mr. Perron rejected Dr. Gawler's theory.

**Canada** - At a lecture at McGill University, Professor Jacelyn Downie said euthanasia and assisted-death should be removed from the current laws. She cited two sections of Canadian law against euthanasia and assisted suicide but then stated that "It's a mixed bag, because it's very clearly illegal, but if you look at all the cases...you don't see 100% of the people, or anywhere close, being charged, prosecuted, and then sent to jail." She went on to cite several related cases.

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A new Canadian organization called the Farewell Foundation for the Right to Die has challenged the Constitution to decriminalize assisted suicide. It was organized as a non-profit to assist its members in ending their lives humanely. In registering, the Foundation argues that its purposes are lawful because prohibition

The Hemlock Foundation of Florida, Inc. is an independent, non-profit 501(c)(3) registered within the State of Florida. Donations to this organization are tax-exempt to donors.

The Foundation **EDUCATES** Floridians on patients' rights and end-of-life choices when facing medical treatment and care. The Foundation also provides Florida Advance Directives free to those requesting them.

In addition to offering the Advance Directive, which includes a Living Will and Appointment of a Surrogate form, the Foundation also offers advice on completing these documents.

By making donations or planned gifts to the Hemlock Foundation of Florida, you will ensure Hemlock continues its mission to promote dignity and freedom of choice at the end of life.

There are several ways to provide a gift to the Hemlock Foundation of Florida that will endure beyond your lifetime, including:

- Making a bequest to the Hemlock Foundation in your will or living trust.
- Naming the Hemlock Foundation as a beneficiary of a life insurance policy.
- Naming Hemlock Foundation as a beneficiary of a retirement account or IRA.

We would be happy to help you structure your estate to best meet both your personal and philanthropic goals. Many of the plans listed above can provide significant tax and financial advantages.

For more information, please call Ben Wilcox at 850-544-4448, email us at [HemlockFL@aol.com](mailto:HemlockFL@aol.com) or write us at:

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against assisted suicide is constitutionally invalid pursuant to sections 7 and 15 of the Charter of Rights and Freedoms. Jason Gratl, the Foundation's lawyer, thinks there will be a lengthy court battle to become incorporated.

**Germany** - The German Medical Association presented new guidelines for physician-assisted suicide. The association said that the new guidelines would allow doctors to decide whether helping a patient to die was justifiable rather than endorsing assisted suicide. Removing feeding tubes and life support has been acceptable when the dying patient explicitly requested it. The association will continue to review the code of conduct which now states that doctors may not "actively shorten" the life of a dying patient.

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A German widower has sued Germany in the European Court of Human Rights to overturn the ban on assisted suicide. In 2002, his wife had a fall which resulted in being paralyzed from the neck down and required the use of a ventilator and constant nursing care. She appealed to the Federal Institute for Drugs and Medical Devices to allow her to obtain medication to commit suicide but was denied. In 2005 she and her husband went to Switzerland where she ended her life at Dignitas, which helps those seeking a dignified manner of death.

**India** - The India Supreme Court is hearing the case of Aruna Shanbaug who has been in a vegetative state since 1973 following an attack by a rapist. The Court has ordered three doctors to examine the medical condition of Ms. Shanbaug. The Court stated that "euthanasia is one of the most perplexing issues which the courts and legislatures all over the world are facing today." In the petition it was stated that

Ms. Shanbaug has been in a "persistent vegetative state" for 36 years and is "virtually a dead person." Ms. Shanbaug was raped by a hospital sweeper at the KEM hospital in November 1973. He then strangled her. The petition states she suffered "brain stem contusion injuries with associated cervical cord injury and, due to this, she was reduced to almost a vegetable." She is currently being force-fed by staff and the petition requests that feeding be discontinued. On March 7, 2011 the Supreme Court (India) rejected the petition for the mercy killing of Ms. Shanbaug.

**Netherlands** - There was an article in Relevant, Magazine of Right to Die, Vol. 37, nr. 1 Feb. 2011 on a "clinic for termination of one's life". It puts forth the idea of having a clinic for the 3,000 or so people who are refused euthanasia or assisted death. The hospices will not accommodate these patients since they are not at the point of death (within three months). Part of the problem with hospice is that they would not be compensated for such patients and also, that there would be conflict in providing palliative care for one group and euthanasia for another group.

**South Africa** - Professor Sean Davison, University of Western Cape, wants the law to change regarding aid-in-dying. He is facing a charge of attempted murder in New Zealand for giving a lethal dose of morphine to his cancer-stricken mother. The issue came to the attention of New Zealand authorities when he published his book, "Before We Say Goodbye" detailing his mother's painful death in 2006. Davison says the mercy killing was at the request of his mother. The rector of the university requested that Davison be allowed to return to South Africa and that if he did not return to New Zealand for the trial he would be dismissed from the univer-

sity, thereby guaranteeing the New Zealand authorities that Davison would be present for his trial. Davison has ignited debate over voluntary euthanasia but he believes that South Africa is receptive to changing the law in a carefully monitored context.

**South Korea** - The Korea Golden Age Forum, an association for the elderly, launched a campaign in which seniors opt for a natural death. Five hundred elderly are refusing life-support treatment. The campaign was initiated to help reduce the anguish of medical doctors and family members when dealing with terminally ill patients. The association defined life extension by medical technologies as a meaningless act that ends up undermining the dignity of human beings. Last year the Supreme Court approved Korea's death with dignity on the grounds that a patient verbally expressed her wish to die a natural death on several occasions. Pledges have been written by members, which are not legally binding, but will become critical evidence of their wishes in courts. Perhaps in the near future, there will be a legal "living will" available to South Koreans. An attempt was made last year to pass legislation allowing passive euthanasia but was rejected, noting that suspension of treatment should be determined by the patient, not by law.

**Switzerland** - The European Court of Human Rights has dismissed the appeal of a man who twice attempted suicide and then turned to Dignitas for help. No doctor would issue a lethal prescription so he approached the local authorities to try to obtain the medication without a prescription. The government rejected his request and this rejection was recorded by the federal court. The European Court of Human Rights concluded that the authorities, in refusing to provide the drug without a prescription, had

not violated his rights.

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Some politicians in Switzerland want to tighten the laws regarding assisted suicide. Some think that Switzerland is becoming a "suicide tourist" site and want to place strong restrictions on the doctors and clinics offering assistance. From all indications, changing the law may be difficult since about 73% of Swiss people support assisted suicide, even if the patient is not terminal. Switzerland has allowed assisted suicide since 1942 and it is doubtful whether this will change in the near future. Switzerland is the only place that will assist foreigners to end their lives. Daniel Jositsch, a Social Democrat, said "The current liberal solution doesn't seem to be negotiable in Switzerland as both parliament and Swiss voters are against stricter rules."

**Taiwan** - A recent mercy-killing shows a need for government change. Wang Sun-yuan, an 84-year-old killed his wife, who had been suffering from Parkinson's disease for decades and was recently disabled after a fall. He immediately turned himself in to authorities saying he had killed his wife because he didn't want her to suffer any longer. Frank Wang, of the National Chengchi University's Graduate Institute of Social Work, is pushing for legislation for more government assistance in caring for the nation's seniors. Currently, the government provides only minimal services to seniors living alone, and excludes those with families or with foreign caregivers. Many families hire caregivers from other Asian countries to care for ailing elderly family members.

**United Kingdom** - The think-tank Demos recently organized an inquiry to discuss assisted dying. Pauline Smith of the West Midlands NHS Strategic Health Authority said, "Our view is

that the current law does not match the requirements of the 21<sup>st</sup> century.” Sir Mike Richards called for a new debate about the service doctors provide to patients who are dying. He said “...more patients should be able to choose to die at home and called for better training for doctors and nurses to help them feel comfortable discussing death with those in their care.” Much of this discussion has evolved because a number of Brits have traveled to Dignitas in Switzerland to end their lives.

**Scotland** - Late last year the legislature rejected an assisted suicide bill by a five-to-one vote. Margo MacDonald, an Independent MSP member, introduced the bill and was deeply disappointed. The proposal called for “anyone aged over 16 to be able to request help to die. The person must be diagnosed as terminally ill and find life intolerable.” She told members of the parliament that she “condemns as cheap and unworthy the contribution made by the publishers and authors of this catalogue of linguistic contortions headed ‘Care Not Killing.’ A post-card distributed by some churches alarmed some frail and elderly people. Ms. MacDonald, who has Parkinson’s disease, vowed to pursue this issue.

**United States** - “How to Die in Oregon”, a recent entry and prize-winner at the 2011 Sundance Film Festival, has received a glowing report from ERGO director and Hemlock founder, Derek Humphry. He said, “Amidst the sorrows of dying and death there were courageous cameos and plenty of love, laughter and hugs. The film is artistic and tasteful, also showing the huge progress right-to-die has made in America.” The film includes some background on the Hemlock Society which was organized in 1980. The film is scheduled to be shown on HBO on May 27 and a later date on the Sundance

Channel. Check your TV Guide.

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There have been a number of recent articles on right-to-die studies regarding end-of-life discussions of patients and their physicians. From these studies a very strong message has been revealed. That message is that the process of dying for terminal patients is more peaceful and pain free if physicians speak openly about the prognosis and treatment options available to the patient. The more information the patients have about their illnesses, the better prepared they are to make rational decisions about their care. Unfortunately, many physicians and patients feel very uncomfortable talking about death and care at the end of life.

A recent paper by Mario Garrett, Ph.D., Professor of Gerontology at San Diego State University, states that communication is vital. The discussion should begin with the “Five Wishes” Advance Directive (Living Will and Appointment of a Surrogate). Dr. Garrett says the discussion could begin by asking five questions: 1) The person I want to make care decisions for me when I can’t; 2) The kind of medical treatment I want or don’t want; 3) How comfortable I want to be; 4) How I want people to treat me; and 5) What I want my loved ones to know. *The San Diego Union-Tribune, Nov. 16, 2010 – Mario Garrett, Ph.D. mariusgarrett@yahoo.com*

The American Society of Clinical Oncology published a pamphlet titled “Advanced Cancer Care Planning” which can be read at <http://www.cancer.net>. Although the pamphlet is directed toward cancer patients it is helpful to anyone with a terminal illness.

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**Hawaii** - Senate Bill 803 was brought before a Senate panel recently. The bill would allow a

terminally ill, competent adult to receive medication to end his/her life. The bill prohibits mercy killing, lethal injection, and active euthanasia and requires patients to receive informed consent. A similar bill was heard in committee in previous years but failed to make it out of committee. The Bill is modeled after the Oregon Death With Dignity Act which has been in effect for several years. If the bill passes the legislature Hawaii will be the fourth state to allow physician aid-in-dying.

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**Idaho** - In February the Idaho Senate heard Bill 1070 outlawing physician aid-in-dying. After review the bill is being revised. It appears there is strong support for this bill.

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**Montana** - The Montana Senate Judiciary Committee considered two bills related to doctor-assisted death. One to regulate the practice and one to ban it. Both bills were tabled which leaves aid-in-dying unregulated in the state. Advocates for physician aid-in-dying state that rules are needed to protect patients from abuse and physicians from medical liability. In December 2009 the Montana Supreme Court ruled that doctors who prescribe life-ending medications for terminally ill patients are not subject to homicide statutes.

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**Oregon** - Oregon now has an electronic version of the Physician Orders for Life-Sustaining Treatment (POLST). It will aid first-responders who can quickly access it during a medical emergency. Approximately 42,000 people have registered for the Oregon program since it was initiated a year ago. Patients complete the form in consultation with their doctors. Once the document is completed it is stored in a database

which is available to staff at Oregon's emergency communication center. POLST, unlike a Living Will, is a document signed by the physician and is a medical order meant to be used by elderly or ill patients. Virginia and New York are also initiating such a law. New York expects to start a pilot program early next year.

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**Washington** - The U.S. Supreme Court declined to hear the appeal of Human Life of Washington. The organization was ordered to disclose its donors to a 2008 campaign against the Washington Death With Dignity ballot initiative. A Ninth Circuit Court panel ruled last fall that voters "deserve reliable information as more groups enter the political marketplace."

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**Vermont** - A Death With Dignity bill, modeled after the Oregon Act, was introduced in the Vermont Legislature by Representative Donna Sweaney. She has been joined by 42 co-sponsors for the bill. Emotions run high on this controversial issue and it will be a difficult decision-making time for many. The Death with Dignity National Center Political Action Fund has committed to contribute \$100,000 to Patient Choices at End of Life – Vermont. Donations to the Vermont campaign can be made online at their website, <http://ActionFund.DeathwithDignity.org>. Note your preference for the Vermont campaign. If you do not have internet access, you can send your check to Death with Dignity Political Action Fund, 520 S.W. 6<sup>th</sup> Avenue, Suite 1030, Portland, OR 97204.

*Around the World news is from the World Right-to-Die news and ERGO, unless otherwise noted.*

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If there is no contact listed for your area, please phone  
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## Hemlock Society of Florida, Inc.

### MEMBERSHIP APPLICATION

Membership dues are **\$20 per person per year**

New/Renewal Name: \_\_\_\_\_  
(Make check payable to Hemlock Society of Florida, Inc.)

New/Renewal Name: \_\_\_\_\_  
(Make check payable to Hemlock Society of Florida, Inc.)

Additional Donation Amount \_\_\_\_\_  
(If you would like a tax credit for this donation, make check payable to Hemlock Foundation of Florida, Inc.)

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ADDRESS SERVICE REQUESTED



**Spring-Summer 2011**

## *Mission Statement*

*Dedicated to improving the quality of dying through education and advocacy, thereby empowering all citizens to make and carry out their own end-of-life decisions. We affirm the individual's dignity and free will throughout life, including the freedom to hasten death under certain circumstances.*

*Pass this newsletter on to your physician as well as interested friends who may want to join us.  
If you would like additional copies please send request to  
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