

# Step by step along the road to Nazi medicine in the United States

by Linda Everett

The implementation of Nazi medical practices in the United States and Western Europe has followed precisely from those small shifts in attitude toward the value of human life indicated by Dr. Leo Alexander (see page 16). From seemingly slight shifts there flowed a systematic assault on the legal and moral guarantors of that value, both through legislation, “educational” programs, and legal cases, to the point where euthanasia and infanticide are now *protected by law*, and tolerated by the majority of the population.

We summarize this process below primarily for the United States, with the addition of some of the more salient “test cases” from Western Europe.

## Setting up the institutions

**1968: Chaplain Robert B. Reeves** of New York City’s Columbia Presbyterian Hospital sets the terms of the drive for euthanasia in an address to the First Euthanasia Educational Conference of the Euthanasia Educational Fund: “We have in our society two supreme challenges. They are, first, to find an honorable equivalent to Spartan exposure on the rocks at one end of life, and second, to find an honorable equivalent to the Eskimo hole at the other end of life.”

**1968: Florida** becomes the first state to have a right-to-die bill introduced. The bill has still not passed, although it has been introduced every year since. As a major center for retired persons, Florida is a special target of the right-to-die movement. The Society for the Right to Die expects Florida to pass the bill in 1984, especially with an “accommodation” made by the Florida Catholic Conference.

**1969: Founding of the Hastings Center (Institute of the Society, Ethics and the Life Sciences)** in Tarrytown, N.Y. Hastings seeks to replace the Judeo-Christian principle of the sacredness of life with the phony “quality of life” ethic, outlined by the center’s president, psychiatrist William Gaylin, in 1972: “It used to be easy to know what we wanted for our children, and now the best for our children might mean deciding which ones to kill. We’ve always wanted the best for our grandparents, and now that might mean killing them.”

Hastings propagandizes its “ethics” through seminars and writings about death and dying, genetic counseling and engineering, behavior control, and population control. The presumed “dilemmas” posed by medical advances—starving handicapped infants, and depriving the terminally ill of food and water—all come under its purview.

Hastings Director Daniel Callahan, formerly of the Population Council, receives funding for the institute from the Ford and Rockefeller foundations, the Rockefeller Brothers Fund, and the Commonwealth Fund, among other sources.

Democratic presidential candidate Walter Mondale is a fellow of the Hastings Center.

**1969: Elisabeth Kubler-Ross’s *On Death and Dying*** is published, kicking off an international propaganda campaign for the right to die.

**1971: Founding of the Georgetown University Center for Bioethics** with a grant from the Joseph P. Kennedy, Jr. Foundation. The Center has been responsible for setting up courses in more than half of the nation’s medical schools on “the ethics of scarcity” and “the ethics of autonomy.” It sponsors seminars and publications on cost-effective cutting of services to the terminally ill elderly, and has justified every assault on the health-care system, from the cutting back on technology to the stifling of pharmaceutical research.

The Kennedy Center provides consultants in crucial legal cases, including the lawyer who demanded the removal of Karen Ann Quinlan from the respirator (see below). Among the bioethical specialists at Georgetown have been Richard McCormack, S.J., Daniel Callahan, and Swiss Jesuit theologian Hans Küng.

**1973: Hearings on “Death with Dignity” are held before the U.S. Senate Committee on Aging**, chaired by Senator Frank Church. Walter Sackett, M.D., a member of the Florida legislature, argues in his testimony that “living will” legislation is necessary to legalize the elimination of severely retarded people, so that the money saved could be applied to other health needs.

**1973:** The American Hospital Association approves a **Patients' Bill of Rights** which introduces the right to refuse treatment, the opening wedge for the right-to-die movement.

**1973:** Two euthanasia bills are introduced in **Oregon** legislature, both defeated.

**1975:** A **Montana** euthanasia bill introduced that would allow a doctor to administer euthanasia, order a nurse to do so, or give lethal drugs to a family member for application. Bill dies in the committee.

**1975:** An active euthanasia bill is introduced into **Wisconsin** legislature which would allow anyone over 7 years of age to make a request to die and anyone over 14 years of age to implement that request. A death request may be written or oral, and a child under 18 years will have to notify his or her parents prior to making a valid death request. Bill is defeated.

**March 31, 1976:** New Jersey Supreme Court rules in the case of **Karen Ann Quinlan**, a 22-year-old comatose patient, establishing that the "privilege of choosing death," in certain circumstances, takes precedence over the duty of the state to preserve life.

The patient's father sought judicial authority to withdraw a life-sustaining mechanism from his daughter based on an argument of "constitutional rights" for free exercise of religion, of privacy, and protection against "cruel and unusual punishment." He was opposed by her doctors, the Monroe County prosecutor, the State of New Jersey and her guardian *ad litem*.

The court held that it could overrule prevailing medical and moral standards, which had been applied by the physicians who defended their decision not to terminate the use of the respirator.

On the issue of the right to privacy, the judge ruled that if Quinlan were alive, she would decide for effective discontinuation of the life support, even if that meant the prospect of natural death. The ensuing death would not be homicide, but rather expiration from "natural causes." The county prosecutor and the attorney general, who stoutly maintained that the termination would accelerate Karen's death and thus be a criminal act, were overruled.

After a year of living with the help of a respirator, the courts ruled that Karen Quinlan had the right to die, and she was removed from her respirator. She continues to live in a coma today.

### The legislative phase

**Sept. 30, 1976:** Gov. **Jerry Brown** signs the **Natural Death Act** (Living Will Act), authorizing doctors to withhold or withdraw all life-saving medicines, substances, and procedures from an allegedly terminally ill adult who has signed a directive ("living will") authorizing such action. The California bill has been the model for right-to-die legislation

which has been introduced in all but two states of the union, and passed in over 20.

**1977:** In the case of **Superintendent of Belchertown State School vs. Saikewicz**, the Massachusetts Supreme Judicial Court upholds a lower court decision that Joseph Saikewicz, a 67-year-old patient at a state mental health facility, should not undergo treatment for leukemia. The court holds that a patient has the right to privacy "against unwanted infringements of bodily integrity in appropriate circumstances," stating that: "The constitutional right to privacy . . . is an expression of the sanctity of individual free choice and self-determination as fundamental constituents of life. The value of life as so perceived is lessened not by a decision to refuse treatment, but by the failure to allow a competent human being the right of choice."

**1977:** Right-to-die laws pass in **Idaho** (March 18), **Arkansas** (March 30), **New Mexico** (April 17), **Nevada** (May 6), **Oregon** (June 9), **Texas** (June 9), and **North Carolina** (June 29).

**June 3, 1977:** **Robert A. Derzon**, head of the **Health, Education, and Welfare Department's Health Care Financing Administration**, issues a departmental memo on "Ad-



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ditional Cost-Saving Initiatives.” The memo urges that federal health-care funds be withdrawn in certain cases to encourage the passage of “living will” legislation. “The cost-savings from a nationwide push toward ‘living wills’ is likely to be enormous,” says the memo. “Over one-fifth of Medicare expenditures are for persons in their last year of life. Thus, in FY 1978, \$4.9 billion will be spent for such persons and if just one quarter of these expenditures were voided through adoption of ‘living wills,’ the savings under Medicare alone would amount to \$1.2 billion.”

### The federal government steps in

**September 1978:** The President’s Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research is formed. On the initiation of Sen. Edward Kennedy (D-Mass.), the U.S. Congress authorizes the creation of a presidential commission with continuing responsibility to study and report on the ethical and legal implications of a number of issues in medicine and research and gives the power to the commission to extend that list as it or President Jimmy Carter sees fit.

The commission has created a public forum for the genocide lobby to present to the public hitherto unacceptable “ethical” decisions. It maintains close relations with the Hastings Center in New York.

**Jan. 18, 1979:** A Massachusetts court rules in favor of the family of **Earle Spring**, a 79-year-old former pharmacist with kidney problems, to terminate kidney dialysis treatment so that he might “die with dignity.” The case is unique in that Spring, not ruled incompetent to make his own decision by the courts, was in full possession of his faculties.

**March 26, 1979:** Washington state enacts right-to-die law.

**April 19, 1979:** Kansas enacts right-to-die law.

**Jan. 24, 1980:** Upon appeal by the guardian of **Earle Spring** and the International Caucus of Labor Committees (ICLC), the Massachusetts courts reconsider the decision to withhold treatment from Spring. Massachusetts Supreme Judicial Court Judge Francis Quirico orders that he be placed back on dialysis. Spring had told his nurses and members of the ICLC that he “did not want to die.” In April, Spring dies while his family is still in court appealing the decision that put him back on dialysis.

**August 1980:** The **Hemlock Society** is formed by American Civil Liberties Union lawyer Richard Scott and British subject Derek Humphrey, a euthanasia advocate who helped to kill his wife and widely publicizes ways to commit suicide. The organization, based in California, becomes one of the leading groups publicizing the right to die.

**1981:** Alabama adopts right-to-die law.

**August 1981:** **Clarence Herbert**, a 55-year-old man who became comatose while recovering from bowel surgery, is starved to death by two doctors at **Kaiser Permanente Hospital** in California, after having failed to die when he was removed from a respirator.

**November 1981:** **Natural Death Act of Washington, D.C.** is signed into effect by Mayor Marion Berry, legalizes the “living will” and penalizes any doctor or hospital staff member who makes an attempt to save the life of someone who has signed such a will.

**Jan. 9, 1982:** San Francisco State University philosophy professor **Mary Ann Warren** testifies before the President’s Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research in Washington, D.C. in favor of active euthanasia to eliminate deformed infants: “It is morally permissible . . . even morally mandatory to allow certain neonates to die.” Warren compares newborns to guppies and suggests that in some cases, “*continued life is not in the interest of the infant itself.*” She later suggests the propagation of “organ farms.”

**1982:** Delaware and Vermont adopt right-to-die laws.

**Feb. 26, 1982:** International Caucus of Labor Committees brings charges against **Mary Ann Warren** under the U.N. Genocide Convention for “advocating” and “complicity in” genocide. As of May 3, 1984, the U.N. Commission on Human Rights claims the complaint is subject to “confidential procedure,” and says disposition will never be made public.

### Legal precedents for murder

**April 1982:** In a legal case which received massive publicity, the State Supreme Court of Indiana and two Monroe county courts decline to force the parents of a newborn infant (subsequently named **Baby Doe**) to provide their infant, born with Down’s Syndrome, with a life-saving operation. The court also allows the parents to withhold all food and water, thus causing the child to starve to death, despite requests from a dozen families to adopt the child. No charges are brought against the parents or the hospital for murder.

**December 1982:** A Massachusetts court finds a nurse and a geriatric center guilty of interfering with the late **Earle Spring**’s family’s right to kill him, and awards \$2.58 million to the family in damages.

**Feb. 2, 1983:** A New Jersey judge orders removal of tubes to provide nourishment to an 83-year-old diabetic whose guardian had decided that she should be allowed to die. Despite an injunction gained to prevent the removal, the woman, **Claire Conway**, dies of pneumonia on Feb. 15.

**March 9, 1983:** An attempt by Los Angeles County prosecutors to bring murder charges against **Kaiser Permanente Hospital doctors Robert Nejdil and Neil Barber**, who removed life support and nourishment from **Clarence Herbert**, is dismissed by Los Angeles Municipal Judge Brian Crahan. Testimony by a nurse involved in the case reveals that the doctors lied to the patient's wife and eight children that "every cell in his brain is dead," despite the fact that no tests were taken and no negative prognosis for neurological recovery was made in the case, until four days after the patient was deprived of food and water, and six days after he was removed from the respirator.

Expert testimony given at the preliminary hearing confirms the judgment of the nurses at the hospital that the death was totally unnecessary. Jesuit priest and euthanasia enthusiast Fr. John Paris of Holy Cross College in Massachusetts testifies that "extraordinary care is any ordinary care which includes food, water, and antibiotics."

**March 31, 1983: The President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research** publishes its final report. While obeisance is paid to the "voluntary choice of the competent and informed patient" throughout, the thrust of the report is to outline situations in which medical treatment can be denied. Exemplary is the following section on "constraints on patients' decisions":

- Health-care professionals or institutions may decline to provide the particular option because that choice would violate their conscience or professional judgment, though in doing so they may not abandon a patient.

- Health care institutions may justifiably restrict the availability of certain options in order to use limited resources more effectively or to enhance equity in allocating them.

- Society may decide to limit the availability of certain options for care in order to advance equity or the general welfare, but such policies should not be applied initially nor especially forcefully to medical options that could sustain life.

The commission recommends that "bioethical" committees be established wherever a consensus decision is required on who shall live and who shall die.

**March 2, 1983: The Reagan administration** promulgates a ruling demanding that all handicapped infants in federally subsidized hospitals receive care, to prevent occurrence of more "**Baby Doe**" murders. The ruling is stricken down April 14 by a federal court, which calls it "arbitrary and capricious."

**May 1983:** Charges against **Drs. Robert Nejdil and Neil Barber** are reinstated by Superior Court Judge Robert Wenke,

who rules that patient **Clarence Herbert** was not legally dead at the time of the removal of his respirator, and that California does not condone mercy-killing.

**July 8, 1983:** New Jersey Appeals Court rules that the Feb. 2 decision to remove nourishment from **Claire Conway** "authorized euthanasia (homicide)," and reverses the lower court decision. The case is now under appeal to the New Jersey Supreme Court.

### **The legislation gets more explicit**

**Aug. 14, 1983: New York Gov. Mario Cuomo** signs legislation recognizing hospices as a state-sanctioned form of health care.

**Sept. 1983: U.S. Veterans Administration** adopts right-to-die regulations for its hospitals, giving the patient, his family, and even his friends the right to order cessation of treatment for "terminally ill" veterans or other persons in the VA's care.

**September 1983:** Regional court in **Krefeld, West Germany**, exonerates **Dr. Herbert Wittig**, a physician who refused to come to the aid of a suicidal patient, despite the fact that he had time to save her from her intentional death.

**Sept. 29, 1983: California Senate Bill 762, the Durable Power of Attorney Act**, introduced by Senator Barry Keene, is passed. It licenses family members and/or guardians to dictate the removal of all life-supporting measures from a terminally ill or incoherent patient, thus legalizing the murder of individuals such as Clarence Herbert who have *not* signed "living wills."

**Oct. 12, 1983:** Second Appellate District Court of Appeals rejects lower court's murder charges against **Kaiser Permanente doctors Robert Nejdil and Neil Barber**. Judge Lynn Compton also establishes guidelines for decisions to withhold or withdraw life sustaining treatment stating that "*Medical nutrition and hydration may not always provide net benefit to patients. . . . Their benefits and burdens ought to be evaluated in the same manner as any other medical procedure.*" Food and water given intravenously is classified as equivalent to the use of the respirator: "The distinction is based more on the *emotional symbolism of providing food and water to those incapable of providing for themselves* rather than on any rational differences [emphasis added]."

**Oct. 13, 1983:** California Appellate Court rules that the death of **Clarence Herbert** was not murder, and that the doctors were not guilty of any "failure to perform a legal duty."

**October 1983: The Hemlock Society and the American Civil Liberties Union** sue in California courts for the "right" of **Elizabeth Bouvia**, a 26-year-old victim of cerebral palsy



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with a master's degree, to starve herself to death without interference of the hospital. The judge rules that the hospital must provide care.

**October 1983:** New York State Court allows parents of a Long Island infant "**Baby Jane Doe**," born with spinal bifida, to deny her a life-saving operation.

**Oct. 31, 1983:** The California Hospital Association establishes new guidelines to withdraw life-sustaining treatment based on the Compton decision in the **Clarence Herbert** case.

**Nov. 1, 1983:** The **Tax Equity and Fiscal Responsibility Act of 1982** goes into effect. It allows Medicare funds to be granted to patients who elect hospice care instead of hospital care, and in effect pays the elderly not to receive treatment, but to die at home.

**Nov. 17, 1983:** Federal District court Judge Leonard D. Wexler denies request by the Reagan administration to examine the medical records of **Baby Jane Doe**, in order to decide whether to pursue a civil rights case demanding medical treatment. Wexler rules that release of the records without the parents' consent would violate the constitutional right to privacy and the confidentiality of the doctor-patient relationship.

**Dec. 12, 1983:** Judge Rose Elizabeth Bird of the Supreme Court denies decertification of the Compton decision in the **Clarence Herbert** case, thus letting stand the guidelines for withholding food and water, to be used as a precedent in future euthanasia cases.

**Dec. 15, 1983:** A Rome court gives a four-year suspended sentence to a man who shoots his nephew to death because he was suffering from hydrocephalus.

**Jan. 9, 1984:** The Reagan administration issues the final recommendation of the **Health and Human Services Department** on discrimination of care against handicapped infants. Surgeon General C. Everett Koop announces a regulation governing the nation's hospitals which reveals a capitulation to the euthanasia lobby:

- hospital "ethics committees" to be instituted to decide the fate of handicapped infants;
- state agencies to establish procedures to protect against medical neglect, thus eliminating federal "interference" in cases;
- guidelines cannot interfere with reasonable medical judgment and do not require medical care in futile cases;
- The Health and Human Services Department can only work through Infant Care Review Boards in suspected violations, and should avoid unnecessary investigations.

**Feb. 2, 1984:** The New York State Supreme Court absolves health-care institutions from the responsibility to provide necessary nourishment and medical treatment in the case of 85-year-old **G. Roth Henninger**, who decided to starve himself to death. Judge Donald Miller ruled that any attempt to sustain the life of Henninger would constitute assault and battery against the patient, and violate his First Amendment rights to free expression and privacy. The man was successful in killing himself.

**March 24, 1984:** New York Grand Jury investigation of "do not resuscitate" practices in **Sloan-Kettering and LaGuardia hospitals** results in regulation of the practice by the governor, rather than its elimination.

**March 27, 1984:** Colorado Gov. **Richard Lamm**, former president of Zero Population Growth, states at the Colorado Health Lawyers Association: "Like leaves which fall off a tree forming the humus in which other plants can grow, we've got a duty to die and get out of the way with all of our machines and artificial hearts, so that our kids can build a reasonable life."

**April 12, 1984:** The *New England Journal of Medicine* publishes guidelines for treating the terminally ill. The guidelines are proposed by a dozen prominent physicians, some attached to respected medical schools, at a meeting organized by the Society for the Right to Die. They specifically recommend the withholding or withdrawing of food and water by vein or gastric tube that would perpetuate "non-meaningful life." The guidelines state that even for "elderly patients with permanent mild impairment of competence," the "pleasantly senile," emergency resuscitation and intensive care should be applied "sparingly."

**1984:** Georgia, Mississippi, West Virginia, and Wisconsin adopt right-to-die laws.