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Swiss government considers stricter law on assisted suicide

Annette Tuffs HEIDELBERG

The Swiss Government is considering new laws that are likely to make it harder for foreigners to travel to clinics, such as Dignitas, to get help to end their life.

Recently the British conductor Edward Downes and his wife, Joan, used the services of Dignitas. Unlike his wife, Sir Edward, 85, did not have a terminal illness.

In June the Swiss justice minister, Eveline Widmer-Schlumpf, announced that two different draft pieces of legislation would be considered in parliament this autumn. "One is a complete ban on assisted suicide, and one is the introduction of stricter, clearer legislation," she said.

Currently it is legal in Switzerland to assist in a suicide unless it can be proved that the assistant has a selfish motive. Opinion polls have always shown that about two thirds of the population have a liberal attitude towards self determined death. But the Swiss are opposed to commercial assisted suicide and the cost to the nation of investigating cases.

Ludwig Minelli, the founder of Dignitas, complained that the new legislation was directed wholly at his organisation. "The new laws would fit perfectly in a police state," he said.

Meanwhile stricter rules have already been agreed between the nationwide Swiss suicide help organisation Exit, whose services are available only to Swiss citizens and which has 65 000 members in Switzerland, and the government of Zurich canton to make suicide assistance safer, more transparent, and less costly for state officials to investigate.

From 15 September the new rules, which will apply only in the Zurich canton, will restrict the circumstances in which an individual will be eligible for assisted suicide and will require them to undergo a longer period of counselling.

Those wanting the service will also have to prove that they have a serious terminal illness, severe disability, or the after effects of a serious accident.

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Doctors call for guidance on prioritising A/H1N1 critically ill

Rebecca Coombes LONDON

"Extraordinary pressure" is expected on critical care beds this autumn, as the A/H1N1 influenza pandemic is set to enter a severe phase. However, the Department of Health has yet to clarify how it plans to meet demand, according to a House of Lords report this week.

Peers also questioned whether clinicians felt confident about the legal consequences of making difficult triage decisions as the demand for critical care beds intensifies.

The House of Lords Science and Technology Committee heard in May from the then health secretary, Alan Johnson, who confirmed that strategies would be introduced to boost intensive care capacity, including suspending elective procedures that need intensive care after operation. Ian Dalton, the national director of NHS Flu Resilience, the flu tsar, said that a doubling of critical care facilities would be possible "under a severe attack phase."

But Bruce Taylor, consultant in intensive care medicine at Portsmouth Hospitals NHS Trust, told the committee "with some force his concern about the provision for critical care in the event of a pandemic and also about the ethical guidance given to healthcare workers to assist them when presented with difficult choices arising from scarcity of intensive care unit resources."



Critical care bed numbers may have to double at height of flu epidemic

According to the Department of Health, the worst case scenario is that 50% of the population need NHS treatment during the pandemic.

Figures on 27 July from the World Health Organization show 816 confirmed deaths from swine flu globally. According to the Health Protection Agency on 23 July in England 840 patients have been admitted to hospital for swine flu, and 26 have died. GP consultation rates for flu-like illness rose sharply last week in England to 155 per 100 000 consulted, compared with 73.5 per 100 000 in the previous week.

In their report issued this week the peers urged the health department to provide detailed information about critical care planning: "A pandemic could place

extraordinary pressure on critical care capacity. In particular, we would welcome more detailed information about how it would be possible to double critical care facilities."

Stephen Fletcher, consultant anaesthetist at Bradford Teaching Hospitals Foundation NHS Trust, told the *BMJ*, "Intensivists would like and require national guidance to support critical care treatment decisions during pandemic flu. Such a nationally agreed policy is the only way to ensure equity of access to treatment and maximise outcomes for the critically ill."

The peers' report, *Pandemic Influenza: Follow Up*, is at www.publications.parliament.uk/pa/ld200809/ldselect/ldsctech/155/15502.htm.

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IN BRIEF

New guidelines seek to boost organ donation in Germany: The German health ministry has issued new voluntary guidelines to hospitals aimed at increasing the number of organ donors, after the number fell by 9% in 2008. The guidelines say that all hospitals with intensive care units should have transplant coordinators who will try to identify potential organ donors and cooperate with the national organ procurement agency.

Fishing tops list of dangerous jobs: Commercial fishing is the United Kingdom's most hazardous job, the latest accident figures show. The rate of fatal accidents among commercial fishers was 115 times greater than in the overall workforce. The workers in the next most hazardous occupations were dockers and stevedores; refuse and salvage workers; agricultural machinery drivers; steel erectors; road workers; and roofers and scaffolders (*Accident Analysis & Prevention*, doi:10.1016/j.aap.2009.06.031/).



CHRISTOPHER FURLONG/GETTY IMAGES

Antioxidant supplements raise risk of bladder cancer: A meta-analysis of 22 trials has found that antioxidant supplements have no preventive effect on cancer (relative risk 0.99 (95% confidence interval 0.96 to 1.03)). Instead it found that the use of such supplements raised the risk of bladder cancer (relative risk 1.52 (1.06 to 2.17)) in a subgroup of four trials (*Annals of Oncology*, doi:10.1093/annonc/mdp286/).

WHO minimum dataset has had mixed results: A retrospective evaluation of 21 online clinical trial registries between April 2005 and February 2007 shows that compliance with the WHO's minimum dataset has improved. But it also shows that many individual trial records still omit key information, such as researchers' contact details and key clinical and methodological data fields (www.trialsjournal.com/content/10/1/56).

Gonorrhoea incidence falls by 11% in the UK: The number of new gonorrhoea infections in the United Kingdom fell from 18 649 in 2007 to 16 629 in 2008, the lowest number recorded since 1999. Incidence of syphilis also showed a 4% fall, from 2633 in 2007 to 2524 in 2008, says the Health Protection Agency.

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Doctors in NHS disciplinary hearings can now have lawyer

Clare Dyer *BMJ*

The Court of Appeal has overturned rules introduced four years ago denying doctors access to legal representation in disciplinary proceedings by NHS employers in England.

The wording of the rules, agreed in 2005 after negotiations between the Department of Health and the BMA, was widely thought to have deprived doctors of the longstanding right to have a lawyer act for them at a disciplinary hearing.

The health department was concerned about lengthy cases that saw consultants suspended for years on full pay and sought to make the procedure less formal by excluding lawyers.

The new rules stated that a doctor could be assisted by a friend or spouse, even if legally qualified, or a lawyer "employed or retained" by a defence organisation or trade union but not "representing the practitioner formally in a legal capacity."

But the Appeal Court said this phrase was meaningless and should be ignored. A doctor facing disciplinary proceedings was entitled to be represented by a lawyer instructed by the defence organisation, and that lawyer was entitled to use all the usual legal skills in the doctor's defence.

The unanimous ruling by three Appeal Court judges came in a challenge to the rules by Kunal Kulkarni, a foundation year 1 doctor facing proceedings by Milton Keynes Hospital Foundation NHS Trust over a complaint by a female patient that he placed a stethoscope beneath her underwear without her consent.

The judges said the right to legal representation also applied to capability and ill health proceedings, not just misconduct cases.

Owen Warnock, a partner with the law firm Eversheds, said, "In practice, NHS employers in England should now allow medical practitioners to bring a legal representative to disciplinary hearings if the individual might be facing dismissal. NHS employers should revise their practices accordingly."

Delivering judgment, Lady Justice Smith said that Dr Kulkarni was a member of the Medical Protection Society and entitled to be represented by a lawyer.

Under human rights laws, a doctor who was not a member of a defence body, who preferred not to use the services of such a body, or whose defence organisation refused representation would also be entitled to legal representation if facing possible dismissal, she added.

Cite this as: *BMJ* 2009;339:b3062

President of British Pain Society is forced from office over NICE guidance on low back pain

Zosia Kmietowicz *LONDON*

The president of the British Pain Society was forced to resign on 21 July after a campaign from members who were unhappy with guidelines on the management of low back pain from the National Institute for Health and Clinical Excellence (NICE), which he helped develop.

In a letter to the *BMJ* this week Michael Rawlins, chairman of NICE, and Peter Littlejohns, the institute's clinical and public health director, called the move to oust Paul Watson as "shameful" and "professional victimisation of the worst kind" (*BMJ* 2009:339:b3028).

Professor Watson, who has been president of the society since April, said he was "very disappointed" about what had happened. "It gives the wrong impression of how the British



ZEPHYR/SPL

Professor Rawlins asked why members had not conducted trials on the efficacy of injections

Government proposes group activities to boost mental health

Oona Mashta LONDON

Wellbeing initiatives that encourage group activities should be promoted among whole communities in a bid to prevent mental health problems, according to the government's consultation document on the future of mental health policy.

The document, *New Horizons*, sets out a new approach to tackling mental health problems by focusing on prevention as well as treatment.

Urban allotments, reading groups, and computer training for people older than 50 are just some of the initiatives highlighted in the document.

Launching the document on 23 July the care services minister, Phil Hope, said, "People with mental health problems are more likely to do other things that damage their health, such as have a poor diet, smoke, or take drugs. So promoting good mental health is a key part of tackling many other health inequalities.

"Our aim is to build on recent achievements, while taking the next logical step—helping to prevent mental health problems from developing in the first place.

"We want to promote wellbeing groups such as physical activity groups which break down isolation and are also good for both your mental and physical health," he said.



Joint activities, such as urban allotments for the over 50s, can help to reduce isolation

New Horizons will replace the national service framework for mental health, which will be 10 years old in September. It was developed with a wide range of partners including the NHS Confederation, the royal colleges, and mental health organisations.

The new document says that the response of local and education authorities, such as schools, employers, the NHS, and the criminal justice system, will be critical because it wants to make mental health everyone's business.

As well as improving the quality and accessibility of services for people with poor mental health, it also calls for early intervention for adults and children to improve long term outcomes.

It suggests that children are taught mental wellbeing and resilience skills to prevent mental health problems in adult life, leading to better outcomes in health, education, employment, and relationships.

Mr Hope said, "When GPs are seeing patients about another complaint they may pick up early symptoms of mental health problems and refer them on to community mental health services. Children could also be taught emotional resilience skills to help them cope with the ups and downs of life, such as job loss and divorce.

To contribute to the consultation visit www.dh.gov.uk/mentalhealth.

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Pain Society conducts its business, and that distresses me quite a lot," he said.

Some members of the society called an emergency general meeting on 21 July because they were not satisfied with a statement the society put out about its opposition to NICE guidelines. In addition, they wanted Professor Watson to repudiate the guidelines or resign.

The main sticking point was the recommendation in the guidelines that injections of therapeutic substances into the back for non-specific low back pain should not be offered, as the evidence of effectiveness is lacking.

But the society said that NICE's guideline development group was "misguided" for not considering evidence from cohort studies and clinical case series in its deliberations on this and other treatments.

When Professor Watson refused to denounce the guidelines, members of the society voted for his resignation, by 186 to 179.

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One in four multiple pregnancies at London clinic came from fertility treatment overseas

Roger Dobson ABERGAVENNY

Fertility treatment outside the United Kingdom was responsible for more than a quarter of fertility treated multiple pregnancies (more than two embryos) seen at one UK clinic.

Over 11 years 109 women were treated at a specialist multiple pregnancy clinic at University College Hospital, London. Of these, 94 (86%) were conceived with fertility treatment, 24 (26%) of them overseas (*BJOG* doi:10.1111/j.1471-0528.2009.02294.x).

Reasons women gave for seeking treatment overseas included the high cost of and slow access to local treatment in the UK and the limited number of embryo transfers allowed in the NHS.

Women also said they went abroad for treatment because of the better success rate in overseas clinics and the availability of oocyte

donors from acceptable ethnic groups.

To investigate the extent of cross border reproductive care the authors carried out a study of women with high order multiple pregnancy, defined as more than two viable embryos found on ultrasonography, who were referred to the clinic before 14 weeks' gestation between February 1996 and July 2007.

Of the 109 women seen, 89 had triplet pregnancies, four had quadruplet pregnancies, and one had a quintuplet pregnancy. The oldest woman to receive treatment overseas was 48 at the time of referral and had a triplet pregnancy.

Countries outside the UK where treatment was sought included Algeria, France, Greece, India, Israel, Japan, Nigeria, South Africa, Turkey, and the United States.

Cite this as: *BMJ* 2009;339:b3054

Auditors criticise FDA for failing to track workload and costs

Janice Hopkins Tanne NEW YORK

The US medical regulation and safety body, the Food and Drug Administration, has been criticised by auditors for failing to track its workload, which has rendered it unable to estimate what resources it needs to fulfil its responsibilities.

A report by the US Government Accountability Office says, "The FDA reports that it cannot do all that is asked of it and our analysis of the agency's activities confirm this."

The report calls on the FDA commissioner "to establish a comprehensive and reliable basis to substantiate the agency's estimates of its current and future resources."

It called on the commissioner to take four actions: assess the agency's staffing, including its workforce of contractors; gather data on the work the agency conducts to fulfil its responsibilities; assess the extent to which the agency is meeting its responsibilities, and develop an evidence based estimate of the resources needed to fulfil all its responsibilities.

The commissioner, Margaret Hamburg, took office in June.

The report says that the FDA "could not provide data showing its workload and accomplishments in some areas, such as its review of reports identifying potential safety issues with specific medical products. Without such information, FDA cannot develop complete and reliable estimates of its resource needs."

That report follows one issued by the accountability office in January, which called the FDA a "high risk" area that needs attention "to fulfil its mission of ensuring the safety and efficacy of drugs, biologics, and medical devices."

The accountability office is an independent government agency that conducts reviews of government agencies at the request of Congress.

The January report, issued every two years at the start of a new Congress, added the FDA to its list of "high risk" agencies. It said that the agency was "facing significant challenges that compromise its ability to protect Americans from unsafe and ineffective products."

The Government Accountability Office's report and the January report are at www.gao.gov

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Talks on US healthcare reforms are halted until the autumn

Bob Roehr WASHINGTON, DC

Disagreement among Democrats in the US Congress has pushed back a vote on US healthcare reform bills until the autumn, despite a public relations blitz by President Barack Obama to speed up the process.

President Obama held a series of public events and a news conference on health reform on 22 July, but his continuing focus on abstract principles rather than details of reform did little to convince members of focus groups watching the broadcast.

Typical was his skirting of the issue of sacrifice and costs when he said that the American public are only "going to have to give up paying for things that don't make them healthier."

A *Washington Post* editorial said, "Mr Obama is right that sticking with the status quo is a bad alternative, but he isn't leveling [with voters] about the consequences of change" (www.washingtonpost.com, 26 Jul, "The health-care sacrifice").

One of the few concrete changes that the president has proposed is the creation of an independent advisory council that would recommend reimbursement rates for services and set standards for care.

However, unlike in the case of other agencies, the president could only accept or reject the entire package of recommendations that the council makes. And that decision could only be overridden by the joint action of both houses of Congress within 30 days.

Congress currently makes such decisions, subject to the input (and donations) of locally powerful constituencies, including doctors,



JASON REED/REUTERS

Support for President Obama's health reforms has slipped from 57% to 49% shows a recent poll

hospitals, and insurance companies. It is not likely to give up that power.

The day after Obama's news conference, the Senate's Democratic leader, Harry Reid, abandoned any push to consider healthcare reform legislation before the August recess. That body will now consider it in September.

Then on 24 July discussions in the House of Representatives between Henry Waxman, the liberal chairman of the Energy and Commerce Committee, and the Blue Dog Coalition of moderate and conservative Democrats collapsed. The Blue Dogs are concerned about reimbursement rates in the Medicare programme for elderly people and don't believe that the bill before them goes far enough in trying to contain costs.

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Man with transplanted arms shows his skills

Annette Tuffs HEIDELBERG

One year after the world's first double arm transplant in Munich, the patient, Karl Merk, a 55 year old dairy farmer from



JULI BENZ/TU MUNICHEN

Bavaria, is able to move his arms, ride a bicycle, and scratch his head. Mr Merk says that after a year of daily intensive therapy he feels fit and can move one finger, but he cannot grasp with his hands yet.

At a press conference on 23 July in the southern Bavarian town of Memmingen he was able to show his abilities. After losing both arms when he fell into a harvester in 2002, Mr Merk underwent a 16 hour operation in Munich, where a team of 40 surgeons attached a pair of donated arms (*BMJ* 2008;337:a1162).

Cite this as: *BMJ* 2009;339:b3037

Top UCLA surgeon is demoted for undisclosed payments

Nayanah Siva LONDON

A top orthopaedic surgeon from the University of California, Los Angeles (UCLA) has been demoted after failing to disclose financial links with the medical companies whose products he was researching.

The *Wall Street Journal* (<http://online.wsj.com>, 22 Jul, "Surgeon faces probe of research") reports that Jeffrey Wang allegedly failed to tell the university about payments of \$459 500 he received

between 2004 and 2007 from the companies. Charles Grassley, the US Republican senator who has pursued unreported payments by drug companies to doctors and researchers, is said to have written to the university's vice chancellor about the payments.

Professor Wang was removed from his position as director of UCLA's Comprehensive Spine Center. He remains at the university but is being investigated.

In a statement UCLA said it, "has appointed an independent committee charged with reviewing whether any of the potential conflicts-of-interests identified have in any way affected the research performed and if there are any mitigating actions needed to ensure the integrity of the research results."

Professor Wang had repeatedly failed to disclose his conflicts of interests on forms that are filed with the state and the medical school. He

is said to have received consulting payments, stock options, and royalties from five companies on whose products he was conducting research.

The university said, "UCLA has seen no indication of research misconduct as defined by federal regulation, only a failure by Dr Wang to make timely reports of financial interests, and we are evaluating an appropriate action against him."

Cite this as: *BMJ* 2009;339:b3071

Nicaragua's abortion ban criminalises doctors and endangers lives of women, says report

Andrew Cole LONDON

Doctors in Nicaragua face imprisonment and loss of their licence to practise if they provide pregnant women with therapeutic abortions or with treatment for an unrelated condition that harms their unborn baby, a new report from Amnesty International says.

The report says that the lives and health of women and girls are being placed at serious risk after the country imposed a complete ban on all abortions in the country a year ago.

The new law, which was opposed by 21 Nicaraguan medical associations, means that women face imprisonment for seeking an abortion even if their pregnancy puts their life or health at risk or is the result of rape.

It also threatens medical professionals with prosecution and loss of their licence if they take part in an abortion, including a therapeutic abortion, or cause unintentional harm to the fetus. Amnesty International says that this would extend to intervening in an ectopic pregnancy or even attempting to save the fetus if anything went wrong as a result of the intervention.

It could also mean that doctors would be unable to help women who have miscarried or to provide emergency treatment for someone after a backstreet abortion that went wrong.

The new law appears to be directly at odds with the Ministry of Health's obstetric protocols, which recommend a therapeutic abortion where a woman's life is in danger. This conflict between the new abortion law and the protocols puts doctors in an "unconscionable position," says the report.



Women's rights activists protest in Managua against the ban on therapeutic abortions

The Ministry of Health was effectively asking doctors to become criminals, said one senior gynaecologist. "If I don't comply with the obstetric protocols, I risk being disciplined by MINSa [the Ministry of Health], and if I don't comply with the law I risk being prosecuted by the state," the gynaecologist said.

Young women and teenagers are particularly at risk as a result of the ban, the report says. It points out that Nicaragua has the highest teenage pregnancy rate in Latin America and the Caribbean and that the risk of obstetric complications is higher among

women aged under 20.

The criminalisation of all abortion may also be leading more women to consider taking their own lives. Latest maternal mortality figures in Nicaragua show a 24% rise in the number of teenage maternal deaths from 2007 to 2008, with the chief causes of death being pre-eclampsia and poisoning.

The ban undermines Nicaragua's pledge to reduce maternal mortality by 75% by 2015, says the report.

The report is available at www.amnesty.org.uk.

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