



the oregon report

a publication of the oregon death with dignity center
520 sw 6th avenue, suite 1030, portland OR 97204

non-profit org.
u.s. postage
paid
portland OR
permit #3584

wear your support on your sleeve

Now more than ever, your visible support of Oregon Death with Dignity is vital. Show your neighbors, friends and colleagues where your support is—and perhaps give them a stylish “respect the will of the people” t-shirt for the upcoming holidays. Order yours now online at www.dwd.org or by calling (503) 499.0045.

short-sleeve shirt \$17.50 white 100% cotton; S, M, L and X-L. Choice of two logo colors: green (shown) or blue. Please add \$3 for shipping and handling.

long-sleeve shirt \$25.00 white 100% cotton; S, M, L and X-L. Choice of two logo colors: green (shown) or blue. Please add \$3 for shipping and handling.

ceramic mug \$10.00 white, ceramic. Choice of two logo colors: green (shown) or blue. Please add \$3 for shipping and handling.



RESPECT
the will of the
PEOPLE
www.dwd.org



the oregon report

a publication of the oregon death with dignity center
volume 7 issue 3 winter 2001

ashcroft takes aim at the will of oregon's people

Following terrorist attacks on U.S. soil and the launching of a major war, Attorney General John Ashcroft determined that the U.S. Department of Justice had nothing better to do than to prosecute doctors who respect terminally ill patients' requests for a compassionate ends to their suffering. Shocking really, that at a time when the world is rallying to support freedom and democracy, the chief law enforcement official in the land made one of the most anti-democratic decisions in the history of our country. Here is what has happened to date, and where this fight is headed to preserve Oregon's Death with Dignity law:

tuesday, november 6, 2001

Ashcroft issued a ruling instructing Drug Enforcement Administration (DEA) agents to prosecute doctors and pharmacists who prescribe controlled substances to hasten death. This decree from Washington, D.C. was intended to undermine Oregon's Death with Dignity law, supported in two elections and defended successfully by the Oregon Death with Dignity Center. Your support through three years of federal court litigation has resulted in the flawless implementation of this landmark law.

ashcroft sent improvements in end-of-life care back decades

Ashcroft's decision did nothing to prevent terminally ill people from taking their own lives. Rather, Ashcroft indicated he preferred to drive the practice underground where suicides are

desperate acts—often botched and sometimes violent. This is the very real face of terminally ill suicides in our 49 other states—states without regulatory protections. These are deaths that leave terminally ill people and their families vulnerable, afraid, and isolated.

For four years, Oregon has demonstrated a different model, one that allows a humane and dignified choice for terminally ill people—a choice that permits peaceful closure with supportive families and friends. The law in Oregon has provided relief for the few who chose to use it, and it has been universally recognized as a catalyst to improved end-of-life care for us all.

Thanks to your support, Oregon Death with Dignity Center was prepared for Ashcroft and, once again, quietly led the charge to protect the rights of Oregonians.

wednesday, november 7, 2001

Oregon Attorney General Hardy Myers filed suit against the U.S. Government seeking a temporary restraining order (TRO) that would allow Oregon's law to remain in force until this case against Ashcroft is settled. Mr. Myers relied, in part, on legal complaints concerning federal intrusion into state-regulated medical practice prepared by our attorney, Eli Stutsman.

continued on page 5



OREGON death with DIGNITY www.dwd.org

oregon death with dignity
520 sw 6th ave., suite 1030
portland OR 97204

legal defense and education center
v 503/228-6079 f 503/499-0046

political action fund
v 503/228-4415 f 503/228-7454

Questions or comments? Please contact
us at info@dwd.org

dear friends,

After the tragic events of September 11th, we wondered what might happen to our base of support. We knew that many of our generous donors would also heed the call to contribute to the Red Cross and other worthy causes. The donations you have made to Oregon Death with Dignity have truly changed the face of end-of-life care, in Oregon and across the nation. Even in the midst of a national crisis, your support has not diminished. Thank you for standing up and fighting for that which you believe. Thank you for recognizing that our battle to improve the dying process and restore patient control to end-of-life decision making is one that is just beginning. Thank you for your generous response to our mailings and to our phone solicitations. Thank you for understanding that we are in the battle of our lives against the federal government—and all the resources they will use to overturn Oregon's Death with Dignity law. Finally, thank you for picking up the envelope that came with this newsletter and making one last contribution in 2001 (one more tax deduction couldn't hurt) to help us fight John Ashcroft and preserve your hard-fought rights.

Sincerely,

Scott Blaine Swenson, Executive Director

bringing dignity and respect into your community

Recent town meetings in Corvallis and Portland were successful in bringing together supporters to learn more about the law and what Oregon Death with Dignity Center does to defend and promote it. Great questions and discussion were the features of both meetings at which attendees heard from the legal and policy staff of the Center. We're going to continue moving these around the state, especially in light of recent activities by Attorney General John Ashcroft. These meetings are not fundraisers, just opportu-

nities for supporters to meet staff and learn more about the work of the center.

If you are interested in hosting a house party in your community and would welcome your friends and neighbors to come over and learn more about the law, please contact Jeana Frazzini at (503) 228.4415 or at jeana@dwd.org for more information.

a quiz on principles

Upon learning of Ashcroft's ruling, Oregon Senator Gordon Smith said he agreed with it and that his opposition to Oregon's Death with Dignity law is *"a matter of principle upon which he would stake his political career."* The "principle" to which the senator refers is (choose one; the correct answer is worth 100 points):

- A. State's Rights
- B. Democracy (e.g. one person, one vote)
- C. Individual Liberty
- D. Religious Freedom
- E. None of the Above

If you chose A: 0 points.

Clearly "state's rights" is a matter of convenience for Ashcroft and Smith. Oregon voters have in effect, been told —your votes do not count. Smith might want to read the U.S. Supreme Court decision of 1997 in which Justice Rehnquist opined that issues as controversial as physician assisted dying are best left to the "laboratory of the states" to decide.

If you chose B: 0 points.

Democracy (one person, one vote), like option A, doesn't seem to be the "principle" Senator Smith is searching for. Clearly,

Senator Smith understands that 70% of Oregonians support the Death with Dignity law and would expect him, at the very least, not to work AGAINST the will of the majority of his constituents.

If you chose C: 0 points.

Individual liberty must not be Senator Smith's principle; otherwise he would know that Oregonians certainly respect the decisions of those who would not choose to use Oregon's law—all we ask is that he respect the will of people who would choose to use the law, in return.

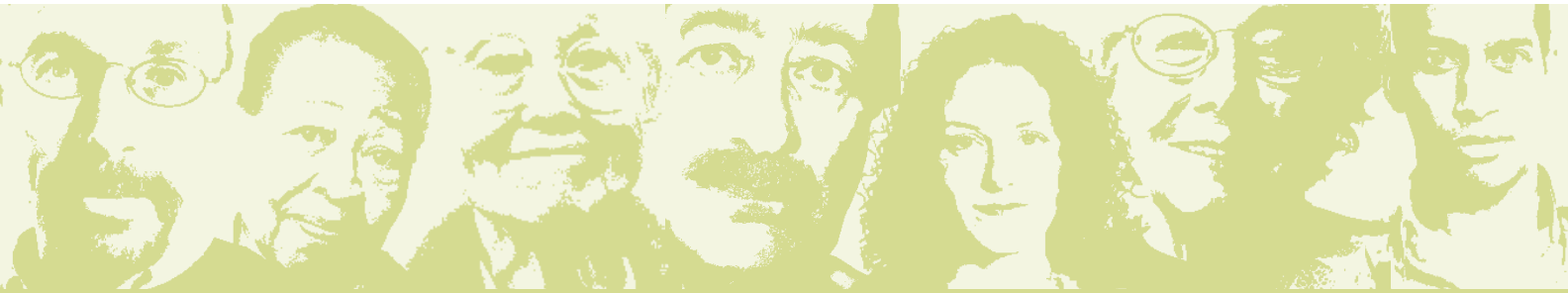
If you chose D: 0 points.

Religious freedom isn't Senator Smith's core "principle" either. In a pluralistic society, we strive to respect and honor the distinct belief systems that each of us uses to guide us through life. Respecting the will of the people who support Death with Dignity doesn't seem to register on Senator Smith's radar.

If you chose E: 100 points.

Apparently, Senator Smith doesn't have any principles on this issue.

"Upon learning of Ashcroft's ruling, Oregon Senator Gordon Smith said he agreed with it and that his opposition to Oregon's Death with Dignity law is 'a matter of principle upon which he would stake his political career.'"



personal story: a letter recently received by odwd

I am putting a check in the mail today because I firmly believe that your actions are extremely important for everyone in the country. I am a social worker and I have worked with many terminally ill patients. I have seen the results of physicians who are too afraid to prescribe narcotics. I have seen the pain on the faces of patients and I have felt the pain in the hearts of their families.

My father, who is an 87-year-old retired surgeon, has been preaching to me about death with dignity since I was a teenager. He was even on a debate on television back in the early 1970's defending his decision to "pull the plug" on his own mother. So I have a background in this area. I am back in school working on a Ph.D. in social work and I have done extensive research on palliative care. I understand the need to allow individuals to leave this life in as little pain as possible.

I honestly believe that the people making the laws to block death with dignity have never sat at the bedsides of terminally ill people or sat in the homes, holding hands with the family members

while their loved ones scream in agony in the other room. And trying to explain to a patient in pain why their doctor is too afraid to write a prescription for pain medication for fear of being "busted for dealing in narcotics" would be too ludicrous to consider if it wasn't true.

Please keep me informed as to anything I can do to help block Ashcroft from his intended actions. I have already emailed him and my Congressmen/women, through the "Death with Dignity" site. And I have sent a check in the mail to help fight this. Thank you for doing what you do and please keep doing it. I can only hope that my own state and others will eventually allow their terminally ill the same option. As it stands now, I do know a few brave physicians, but with the laws changing everyday, the future is uncertain.

Sincerely,
Mary C., MSW, LCSW Louisiana

"Thank you for doing what you do and please keep doing it. I can only hope that my own state and others will eventually allow their terminally ill the same option. As it stands now, I do know a few brave physicians, but with the laws changing everyday, the future is uncertain."

ashcroft takes aim at the will of oregon's people (continued from cover)

thursday, november 8, 2001

Oregon Death with Dignity representative Eli Stutsman filed a suit on behalf of Salem physician Peter Rasmussen and pharmacist David Malcom Hochhalter, DEA registrants threatened directly by the Ashcroft ruling. Both have practices that help patients suffering from terminal diseases. The Ashcroft edict meant they could no longer meet the standard of established care. During hearings before Judge Jones in federal court, attorneys from the State of Oregon requested that the judge rely on arguments from Eli Stutsman to make his decision on the temporary restraining order. Stutsman made persuasive arguments that the law must be allowed to remain in place so as not to cause harm to patients, physicians and pharmacists working within the law's stringent guidelines.

Judge Jones granted the temporary restraining order, allowing physicians to provide care for terminally ill Oregonians under the Death with Dignity law until November 20th when the full injunction hearing would be held.

During the following week, attorneys and staff from Oregon Death with Dignity worked late nights and long hours to prepare briefs, recruit plaintiffs, solicit allies and set in place a strategy that would preserve Oregon's law.

tuesday, november 20, 2001

In a four-hour hearing before Judge Jones, both sides reiterated their positions. Judge Jones, wryly referring to the Ashcroft order as an "edict," questioned whether the increased federal presence in end-of-life care could avoid having a chilling effect on the practice of medicine.

Attorneys for the Justice Department argued that the federal government has a long history of regulatory control over prescription drugs. However, attorneys for Death with Dignity countered that the Ashcroft decision exceeds the powers granted to his office by Congress.

Judge Jones ruled that the TRO he granted on November 8th, would be extended for up to five months while both sides prepare their cases. At that time, Jones will make a decision on the merits of each position and issue his final ruling.

In the meantime, the Oregon Death with Dignity law remains in effect. The next several months will be spent preparing for the federal court showdown. You can rest assured that the Oregon Death with Dignity Center is fighting every step of the way on your behalf.

visit www.dwd.org to protect the will of the people

become an activist from home @ www.dwd.org

If you have access to a computer at home, library, office or elsewhere, head straight to www.dwd.org to learn the latest news and information about the ongoing court battle with Ashcroft. On our new website you can learn how to become an online activist and stay up to date on all aspects of news affecting Oregon's Death with Dignity law.

Our new site features the Death with Dignity Web Action Center where you can register your opinion with various policymakers. It has space where you can share your personal stories and perhaps take comfort from reading those of others. Daily news updates, special features, legal documents, research materials and much more are all part of the site. We encourage you to visit often as we will be adding updates on a daily basis to give you the very freshest information about the court cases and much more.



four years of improvements in end-of-life care

October 27, 2001, marked the fourth anniversary of the implementation of the Oregon Death with Dignity law, the first and only law of its kind in the nation. Each fall, the Oregon Death with Dignity Center (ODWD) publishes the *Improvements in End-of-Life Care* report.

This report includes Oregon Health Division and medical journal data, as well as a brief history of ODWD and a listing of the law's requirements and safeguards.

Since its founding in December of 1994, ODWD has tenaciously defended the Oregon law in the local and national legislatures and courts. From an early injunction through appellate court challenges and finally, a failed repeal effort, ODWD has encouraged an honest and thorough examination of the issues surrounding physician aid in dying. More than seven years of intense debate in the medical, legal and political communities have ushered in a sea change in end-of-life care.

This year's Improvements report is available both in a downloadable version on our website www.dwd.org or by calling our office at (503) 499.0045.



editorials across the nation blast ashcroft

"Ashcroft's attack on Oregon's law may add pain to dying everywhere." Harvard Medical School's Dr. Jerome Groopman in the *New York Times*

"But now Ashcroft has taken it upon himself to be the final word. And while he says he is upholding federal law, in fact he is imposing his own personal policy view on the state of Oregon. That's wrong." *Chicago Tribune*

"The question now is, who should make (these decisions)? The Federal Bureau of Bad Decisions? Or voters and patients and doctors and loved ones? The issue now isn't so much the death of a suffering patient as it is the prognosis for democracy." *Topeka Capital Journal*

"The Ashcroft strategy is a troubling federal encroachment on medical authority and state autonomy alike." *Washington Post*

"Ashcroft has not only infringed upon state's rights, he has infringed on doctor's rights. He has wrapped himself up in a mantle of omnipotence that allows the attorney general to substitute himself for the collective wisdom of both the people of Oregon and the medical profession." James O. Goldsborough in the *San Diego Union Tribune*

"Voiding Oregon's experiment isn't going to stop desperate people from committing suicide. In fact, it was tales of cancer patients blowing their brains out, elderly people facing prison for assisting a desperate loved one and a few courageous doctors speaking the hidden truth that spurred the movement to find alternatives such as this." *USA Today*

"But now Ashcroft has taken it upon himself to be the final word. And while he says he is upholding federal law, in fact he is imposing his own personal policy view on the state of Oregon. That's wrong."

old foes return to support ashcroft

A string of defeats in federal courts between 1994 and 1997 appears not to have deterred Jim Bopp, attorney for the National Right to Life Committee, from joining Ashcroft in attempting to overturn Oregon's law. Bopp, who lost every case he filed against Oregon's law, has filed as an intervener in Ashcroft's case. This is just more extremist political ideology masquerading as legal analysis. Bopp brings with him the deep pockets of National Right to Life, the Conference of Catholic Bishops and others who have spent millions trying to take Oregon's law away. And now, they add the unlimited resources of the federal government—your tax dollars—that will be used to overturn a law passed in two democratic elections and upheld in federal courts. Please use the enclosed envelope to make one last tax deductible contribution to ensure our legal team has the resources to fight in federal court and in the court of public opinion.