

## THE HEMLOCK STORY IN BRIEF

Faye Girsh

When Derek Humphry started the Hemlock Society in 1980, out of his garage in Santa Monica, California had become the first state in 1976 to pass a Living Will law and a few other states had also adopted such a law. There was already a right-to-die (RTD) organization in his native England and a few others in Europe. In the Netherlands in 1973 the courts acquitted a doctor who had helped her mother die.

**PRECURSORS:** In the U.S. the Euthanasia Society of America (ESA) was started in New York in the 1930's with some well-known names, many of whom were also involved in reproductive rights. That group pioneered the Living Will 40 years before it was finally adopted. A euthanasia bill was introduced and defeated in the Ohio legislature in 1910.

**HUMPHRY:** It was the publication of Derek's book, *Jean's Way*, in 1976, about helping his wife to die, that paid for and was the precipitant for the Hemlock Society. Derek had already written five books and was a prominent British journalist for the Sunday Times, specializing in race relations.

When Derek and his second wife, Anne Wickett, moved to the U.S., the ESA had long since morphed into Concern for Dying which then split into the Society for the Right to Die, both more conservative than their parent, both in NYC, and vying for members. One way to do that was to support the Living Will and to drop the euthanasia idea, which had been tarnished by WWII.

The name Hemlock was chosen to symbolize rational suicide, embodied by Socrates in the 5<sup>th</sup> century BC who, at age 70, was convicted of corrupting the youth of Athens in his exploration of truth and virtue. Sentenced to death, he could have chosen exile into an unacceptable world outside of Athens, he decided instead to drink the hemlock in respect of the principle of law and the dignity of the person. Tincture of the hemlock plant was used to punish political prisoners and is not an easy death.

The original Hemlock board was headed by Professor Gerald LaRue, a well-known specialist in social problems of the elderly. He is still in California, teaching, writing, and well known in Humanist circles. Another member was attorney Richard Scott, who, in 1983 was on the ACLU team in the Bouvia case – asking, and ultimately receiving, the right to refuse food and hydration. Scott took his own life a few years later, a victim of bipolar disorder.

Derek continued to write: *Let Me Die Before I Wake* (1986), *The Right to Die* (1986), *Euthanasia* (1991), *Final Exit* (1991), *Double Exit* (1986), *Freedom to Die* (2000), the *Final Exit Video* (2000). He was Executive Director from 1980-1992 when he retired, leaving \$1 million in Hemlock's coffers. thanks to the stupendous sale of *Final Exit* which was on the NY Times Best Seller list for 14 weeks.

During his tenure the sales from his various books helped finance the chapters. Hemlock had 50,000 members in 1992 and chapters were proliferating. *The Hemlock Quarterly* was a well-respected publication and there was a short-lived *Euthanasia Review*. Hemlock headquarters had moved from California to Eugene Oregon in 1986. Derek's second wife committed suicide for psychological reasons in 1991.

John Westover was chair of the Board during this period, succeeded temporarily by Gerald LaRue, who took the reins briefly later. After Derek's resignation the Board was chaired by NY attorney Sidney Rosoff who had been active in starting the World Federation of Right to Die Societies and had chaired the board of the Society for the Right to Die.

**BALLOT INITIATIVES:** Political activity designed to change the law began in the U.S. in 1988 with the California Humane and Dignified Death Act, drafted by attorneys Robert Risley and Michael White. Hemlock contributed significantly to attempting to get that proposal on the CA ballot, with Risley and White's organization, Americans Against Human Suffering. Though the effort attracted worldwide attention, it was impossible to raise the money needed to qualify it for the California ballot. The Hemlock Board developed a five year plan designed to change the law in Washington, Oregon and California – all liberal Western states, with an initiative process.

**WASHINGTON:** By 1991 Hemlock had supported the Rev. Ralph Mero for three years in Washington State while he ably assembled Washington Citizens for Death with Dignity which qualified a physician aid in dying law. Despite being outspent and being deluged with TV commercials featuring C. Everett Koop, recently retired US Surgeon General, denouncing Proposition 119, 46% of the voters endorsed it.

**CALIFORNIA** In 1992, working with Hemlock's money and funds raised by the renamed Californians Against Human Suffering (CAHS), Proposition 161 qualified. Despite being seriously outspent and facing vicious TV ads at the end of the campaign – especially geared to the provision of lethal injection in the bill – 46% of Californians voted Yes. In two years more than five million people voted favorably for such a law.

**COMPASSION IN DYING:** Three organizations were formed as a result of the campaigns in these two states: Ralph Mero and ten others, primarily Hemlock members, started Compassion in Dying (CID) which would openly sit with people in the Seattle area who were about to take their lives and would advise them on medical methods. Mero was head of CID for less than a year then took a position with the Unitarian Universalist Association in Boston. CID has been headed since then by Barbara Coombs Lee, a nurse and an attorney. CID, through its Legal Director Kathryn Tucker, has been responsible for the major litigation on PAD, and continues its work at the bedside in its several chapters. In 2005 Compassion in Dying merged with End-of-Life Choices (the former Hemlock Society USA) and is now Compassion and Choices.

AMERICANS FOR DEATH WITH DIGNITY: CAHS morphed into Americans for Death with Dignity (ADD) with the mission of trying to change the law in California. Several Hemlock people were on the Board of ADD including Derek Humphry for a short time. The current chair is the Rev. John Brooke. Though progress had been made on pain bills, PAD initiatives have been stymied in the General Assembly.

DDNC: To obtain grant money from the Gerbode Foundation, ADD, a 501 C4 organization, added a 501 c3 component which was the Death with Dignity Educational Center, headed by Charlotte Ross in San Mateo. It has since changed to the Death with Dignity National Center, and has moved to Washington DC. It is now located in Portland Oregon, headed by Peg Sandeen.

PRIDONOFF: John Pridonoff, a psychologist and minister, was Executive Director of the Hemlock Society for two years from about 1993 to 1995. Derek started ERGO! (Euthanasia Research and Guidance Organization) in 1994 the principal function of which is publication and internet communication.

GIRSH: In 1996, when Hemlock had an interim director from Denver, the organization moved to its present location to become more centrally located. In August 1996 Faye Girsh, a clinical and forensic psychologist and head of the San Diego chapter, was named Executive Director, a title that was later changed to President. She served until February 2002. At that time she was made Senior Vice President, a position she held until December 2005 when the merger occurred with Compassion in Dying.

During that time Hemlock divided into the Hemlock Society USA, the 501 c3 political organization, and The Hemlock Foundation, a 501 c4. In 1996 membership had fallen to 18,000 and the treasury had declined to \$600,000. John Westover was reelected chair of the board in 1996 and turned the gavel over to Arthur Metcalfe, who was active in the California right-to-die and Hemlock movements. Fred Richardson, former legislator and professor of political science, succeeded Metcalfe in 2001. Neuropsychologist Paul Spiers succeeded as chair in June 2003.

WALKER: Girsh became Senior Vice-President in 2002 and was succeeded by David Walker who had a long history of being CEO of non-profits concerned with child abuse prevention. Walker's tenure was one year.

BRAND: David Brand, legally trained and CEO of a number of non-profits, succeeded Walker in April 2003.

From 1996 to 2002 Hemlock's membership climbed back up to 30,000 and about 60 chapters were functioning in the Unified Dues Structure, which had been started in 1994 to ensure that Hemlock national and chapter membership were the same and that all Hemlock chapters would be approved by the national organization and could be supported by a dues sharing arrangement. The budget for 2005 was approximately \$4 million at the time of the merger.

**KEVORKIAN:** From 1990 many events happened to put the movement on the map. In June 1990 Jack Kevorkian helped Alzheimer's patient and Hemlock member Janet Adkins to die, using his Mercitron. Kevorkian, despite three trials ending in acquittals, continued his version of physician-assisted suicide, first using this device which required barbiturates and, after losing his license, developing a patient-assisted mechanism to use carbon monoxide. In 1997 he provided a lethal injection to Tom Youk, dying of ALS. The video was provided to Mike Wallace and shown to 60 million people in November. Kevorkian insisted that he had to be charged with murder so that this issue could be decided by the Supreme Court. He was charged and acted as his own legal counsel in March, 1998, at his trial where he was convicted of second degree murder and sentenced to 10 to 25 years which he is now serving. He was eligible for parole in 2007 and served two years on parole. His case was not granted certiorari by the US Supreme Court. Hemlock helped with his legal defense and had a representative at his trial and appeal.

**CRUZAN:** In 1990 the US Supreme Court decided the Cruzan case ruling that Missouri was right in not allowing this young woman in a persistent vegetative state to die, because of a lack of clear and convincing evidence, but affirming the right of Americans to refuse unwanted medical treatment including food and hydration and their right to appoint a health care proxy to speak for them when they could not. Cruzan was later allowed to die; John Ashcroft was the governor of Missouri at that time.

**FINAL EXIT:** In 1991, coincidental with the first vote ever taken on PAD in Washington state, Derek Humphry published the first edition of Final Exit: The Practicalities of Self-Deliverance for the Terminally Ill. It achieved the status of best seller for 14 weeks on the NY Times list and has been translated into 12 languages.

**PSDA;** Also, in 1991, Congress passed the Patient Self-Determination Act requiring every federally funded medical facility to tell patients that they could have an advance directive. By this time every state had passed Living Will laws and permitted the designation of health care proxies.

**QUILL:** A medical first was achieved by the publication, in the New England Journal of Medicine, of an account by Rochester physician, Timothy Quill, explaining why he helped his patient, Diane, die by providing her with barbiturates. Legal action was taken but the Rochester Grand Jury did not indict him.

**OREGON:** The two close defeats in Washington and California focused attention on this issue which, in 1994, took a positive turn with the passage of the Death with Dignity law in Oregon by 51%. The law was challenged by the National Right to Life Committee and was held up in the courts until it was dismissed by the 9<sup>th</sup> Circuit in 1997. That year the Oregon legislature put the measure on the ballot to rescind but it was defeated by 60% of the voters and became law. October 26, 2007, marked the 10<sup>th</sup> anniversary of the Death with Dignity law. Studies done show that no slippery slope has occurred, that it is not used by poor, uninsured or disabled people, that the population using it is well educated and most people have cancer. It is used by less than 1/10 of 1% of people who die each year in Oregon.

**OPPOSITION:** Challenges to the Oregon law continued with the petition of then attorney-general Janet Reno by Representatives Henry Hyde, Senator Orrin Hatch and others to criminalize doctors who used the law. Failing that attempt in June, 1998, the Lethal Drug Prevention Act of 1998 was introduced in Congress. It would have accomplished the nullification of the Oregon law. It passed the House but was not introduced in the Senate. In the 106<sup>th</sup> Congress the same contingent introduced the Pain Relief Promotion Act, which also passed the House and was stalled by Clinton's impeachment hearings in the Senate. The next attempt was by Attorney General John Ashcroft in November, 2001, through the issuance of a decree stating that doctors who prescribed federally controlled substances (i.e., short-acting barbiturates) to intentionally cause death could lose their prescribing license and be subject to criminal penalties. This was challenged by the Oregon Attorney General. Federal Judge Robert Jones ruled in May, 2002, that the attorney general had no authority to decide what legitimate medical care is. Ashcroft appealed; his case was heard by the 9<sup>th</sup> circuit on May 7, 2003 and was decided in favor of the Oregon law.

**MICHIGAN:** In 1998 another ballot initiative was proposed by a group, Merian's Friends, in Michigan. Outspent 32 to 1 by monies coming primarily from Catholic sources, the measure received only 29% of the vote. Six million dollars was spent to defeat this initiative compared to \$75,000 spent by the proponents.

**MAINE:** In 2000 an initiative was placed on the Maine ballot, following a legislative struggle in which an Oregon-type measure was introduced, debated, and voted on though it lost 28 to 99 votes. Despite a 30% French-Catholic population, the initiative garnered a heartbreaking 49% of the vote. Hemlock supported both of these initiatives and has been the only organization to support all six ballot initiatives.

**LEGISLATURES:** Though PAD measures have been introduced in at least 25 State legislatures little success had been achieved until 2002 when the Hawaii house voted for it. It lost in the Senate by 2 votes and was supported strongly by Governor Ben Cayetano. Currently there are efforts in several U.S. legislatures as well as several abroad to pass a law permitting assisted dying.

**NU TECH:** Following the publication of *Final Exit*, the concept of self-deliverance with medications became a possibility for many. With the second edition in 1997 non-medical methods were introduced. The reality of legal assisted dying was becoming increasingly remote in states other than Oregon. Derek Humphry and John Hofsess in Canada, who had been working on changing the law then, were discouraged by the failure of legal and legislative progress, attempted to promote research in non-medical methods of achieving a peaceful death. The first NuTech meeting was held in San Francisco in 1998. The next one incorporated a variety of people from other countries and was held in Seattle in 1999. The third meeting was held in Vancouver, thanks in large part to financial assistance from Hemlock. This group developed several methods that people could procure and use with some ease. The most popular method was the use of helium gas available in small

kits. NuTech research is ongoing in Canada, Australia, the Netherlands, and other countries. ERGO continues to support its work.

**AUSTRALIA:** In 1995 the first legislation permitting physician-assisted suicide and euthanasia was passed in the Northern Territory of Australia spearheaded by Northern Territory prime minister Marshall Perron. The Rights of the Terminally Act went into effect in 1996 -- opposed by the Australian Medical Association. Dr. Philip Nitschke was the only physician willing to help the four cancer patients who requested a peaceful death under this law and were able to obtain the requisite second signatures of a doctor and a psychiatrist. Bob Dent, dying from prostate cancer, was the first man in the world to have a doctor end his life legally. In January 1997 the law was rescinded by the Australian Parliament. Several Australian states have had similar legislation introduced and Dr. Nitschke continues to call attention to the problem while, at the same time, working on NuTech methods.

**NETHERLANDS & BELGIUM:** In 2002 legalization of physician-assisted suicide and voluntary euthanasia occurred in the Netherlands, after an illicit though recognized practice of 25 years, and in Belgium. In Switzerland the German-speaking Exit Society has been helping people with assisted suicide for a number of years under a provision in the penal code passed in the 1930's permitting this to happen as long as the motives were unselfish. In 2001 another Swiss organization emerged under attorney Ludwig Minelli which provides this help to people who do not necessarily live in Switzerland. The prospect of "death tourism" has made this controversial.

**COURTS:** In the courts Compassion in Dying presented a major challenge to laws prohibiting physician-assisted suicide in two cases, in the states of Washington and New York. Decisions in 1996 from an *en banc* 9<sup>th</sup> Circuit and a three person 2<sup>nd</sup> Circuit both concluded that there the prohibition against PAD violated liberty provisions and equal protection clauses of the 14<sup>th</sup> amendment. The US Supreme Court heard these cases in January 1997 and overruled the lower courts in a unanimous verdict, agreeing that PAD is not a constitutional issue but should be left up to the states to decide. Compassion, in 2000, filed a state case in Alaska challenging the law against PAD but lost. A similar case had been filed by Hemlock of Florida and the ACLU of Florida in 1997. The trial court ruled that AIDS patient Charles Hall could obtain help to die from Hemlock member and physician Cecil McIver but the Florida Supreme Court reversed, with a strong dissent from Chief Justice Jerome Kagan.

**NATIONAL CONFERENCES:** Hemlock has held 13 national conferences, the most recent in San Diego in January 2003. Bishop Shelby Spong was the keynote speaker. In 1998 and in 2000 Hemlock hosted the biennial conferences of the World Federation of Right to Die Societies in Boston. Dr. Richard MacDonald, Hemlock's Medical Director, was elected President of that organization.

**MEMBER PROGRAMS:** In 1997 the Hemlock Foundation started the Patient Advocacy Program, prompted by the 28 million dollar SUPPORT study showing that 9000 + patients dying in five major medical centers did not have their advance directives

honored or their pain treated. The Patient Advocacy Program will now intervene if this is true for a Hemlock member. In 1998 the Caring Friends Program was started to provide personal information and support to terminal or hopelessly ill Hemlock members who are considering a hastened death. In its four years of operation about 150 volunteers have been trained and have worked with about 300 members, more than 100 have died peacefully with Caring Friends presence.

**PUBLICATIONS:** Hemlock was the only organization that provides information in the form of books, tapes, pamphlets, video and audio tapes about all end of life choices. There are seven booklets written and published by Hemlock and two video tapes: the Hemlock Story and the Caring Friends video. *Final Exit* and the *Final Exit Video* plus current advance directives for every state and other materials are available on the ERGO web site.

**QUARTERLY:** Our quarterly magazine, *End of Life CHOICES*, is the largest publication of this kind in the Western Hemisphere. The current format started in January 2002. Previously it was called *Time Lines* and, before that, it was *The Hemlock Quarterly*.

**SUMMARY:** Hemlock's goal of obtaining choice and dignity at the end of life has been achieved through a multi-pronged effort to change the law by political and legislative means, to provide legal and personal information and support through the Caring Friends Program, and through our chapters and publications to provide information about all end-of-life options. Public relations and educational efforts are made throughout the country through our speakers and chapter programs.

Although there is no longer a national Hemlock organization there remain three autonomous organizations which retain the name Hemlock and were former Hemlock USA chapters. They are Hemlock Society of Florida, Hemlock Society of Illinois (now an affiliate of the Final Exit Network) and **Hemlock Society of San Diego**.