

Further on, they go on to other questions. But, clearly, the palliative care and the protection of the physician's professional actions are there.

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But, in addition, I questioned at length, the AMA. At first I called the AMA with deep concern about their support for the bill. And then after discussing with the AMA, they sent me documentation as to their reasons for support.

Because I am the wife of a doctor and I have had all kinds of contacts with medical provisions, and they specifically explicitly state in black and white that the addition of language explicitly acknowledging the medical legitimacy of the double effect in the CSA provides a new and important statutory protection for the physicians prescribing controlled substances for pain, particularly for patients at the end of life.

It is unambiguous and the AMA supports this because their previous concerns have been addressed quite correctly by the gentleman from Illinois (Chairman HYDE) and the committee.

I strongly support the bill; and oppose the substitute as ambiguous and inadequate.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, the gentlewoman from New Jersey (Mrs. ROUKEMA) described herself as wrongly identified. I would like the RECORD to note that she asked to be a cosponsor of the amendment, voluntarily signed "dear colleagues," and was part of a letter to the leadership; and while she may have changed her mind, things were not misrepresented and she was not wrongly identified. She has merely changed her position. And I certainly accept and respect that.

Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Texas (Mr. GREEN).

(Mr. GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Chairman, I oppose assisted suicide. If I had the opportunity either as a Member of Congress or in a referendum, I would vote to make that illegal. However, I am concerned about the unintended consequences that this bill would place on providers and patients at risk, as well as preempt State laws that have already addressed this issue.

All of us have had experience with very dear and close family members who have died and had to have hospice treatment. In my State of Texas, where a physician-assisted suicide is not legal, the definition of "intractable pain" and the rules that govern its treatment are carefully worked out and negotiated.

Over the past years, the Texas Board of State Medical Examiners has modified their rules to fine tune them so that they will provide for best care for patients without undue interference.

Our pain act was passed to reassure physicians that they would not have enforcement action taken against them if they prescribed a prescription for a controlled substance.

Now I see we have a difference between the AMA and Texas Medical Association. Because before this act was passed by the legislature, many physicians were consciously undertreating patients because of the fear of State disciplinary action. I worried this would happen. That is why I stand in support of the Johnson-Rothman-Hooley substitute.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield 1½ minutes to my colleague, the gentleman from Texas (Mr. PAUL).

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Mr. Chairman, I thank the gentlewoman for yielding me the time.

Mr. Chairman, I rise in support of this amendment. This will improve the bill. I am very concerned, as a physician, that this bill will do great harm to the practice of medicine. This is micromanaging the palliative care of the dying.

So I strongly support this amendment because it will remove the severe penalties and the threats. Physicians are accustomed to practicing with lawyers over their shoulders. Now we are going to add another DEA agent over our shoulders to watch what we do.

It is said, well, there is not going to be any change in law. Well, if there is not, why the bill? Certainly there is a change in law. This bill does not state that it is dealing with euthanasia. It says it is a pain relief promotion act.

Generally speaking, I look at the names of bills and sometimes intentionally and sometimes just out of the way things happen here, almost always the opposite happens from the bill that we raise up. So I would call this the pain promotion act. I really sincerely believe, as a physician, that this will not help.

Too often physicians are intimidated and frightened about giving the adequate pain medication that is necessary to relieve pain. This amendment will be helpful. This is what we should do. We should not intimidate. The idea of dealing with the issue of euthanasia, euthanasia is killing. It is murder.

I am pro-life. I am against abortion. I am absolutely opposed to euthanasia. But euthanasia is killing. Under our Constitution, that is a State issue, not a congressional issue.

I strongly urge the passage of this amendment.

Mr. Chairman, today Congress will take a legislative step which is as potentially dangerous to protecting the sanctity of life as was the Court's ill-advised Roe versus Wade decision.

The Pain Relief Promotion Act of 1999, H.R. 2260, would amend Title 21, United States Code, for the laudable goal of protecting palliative care patients from the scourge of "as-

sisted" suicide. However, by preempting what is the province of States—most of which have already enacted laws prohibiting "assisted suicide"—and expanding its use of the Controlled Substances Act to further define what constitutes proper medical protocol, the federal government moves yet another step closer to both a federal medical bureau and a national police state.

Our federal government is, constitutionally, a government of limited powers. Article one, section eight, enumerates the legislative areas for which the U.S. Congress is allowed enact legislation. For every other issue, the federal government lacks any authority or consent of the governed and only the state governments, their designees, or the people in their private market actions enjoy such rights to governance. The tenth amendment is brutally clear in stating "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Our nation's history makes clear that the U.S. Constitution is a document intended to limit the power of central government. No serious reading of historical events surrounding the creation of the Constitution could reasonably portray it differently.

In his first formal complaint to Congress on behalf of the federal Judiciary, Chief Justice William H. Rehnquist said "the trend to federalize crimes that have traditionally been handled in state courts . . . threatens to change entirely the nature of our federal system." Rehnquist further criticized Congress for yielding to the political pressure to "appear responsive to every highly publicized societal ill or sensational crime."

However, Congress does significantly more damage than simply threatening physicians with penalties for improper prescription of certain drugs—it establishes (albeit illegitimately) the authority to dictate the terms of medical practice and, hence, the legality of assisted suicide nationwide. Even though the motivation of this legislation is clearly to pre-empt the Oregon Statute and may be protective of life in this instance, we mustn't forget that the saw (or scalpel) cuts both ways. The Roe versus Wade decision—the Court's intrusion into rights of states and their previous attempts to protect by criminal statute the unborn's right not to be aggressed against—was quite clearly less protective of life than the Texas statute it obliterated. By assuming the authority to decide for the whole nation issues relating to medical practice, palliative care, and assisted suicide, the foundation is established for a national assisted suicide standard which may not be protective of life when the political winds shift and the Medicare system is on the verge of fiscal collapse. Then, of course, it will be the federal government's role to make the tough choices of medical procedure rationing and for whom the cost of medical care doesn't justify life extension. Current law already prohibits private physicians from seeing privately funded patients if they've treated a Medicaid patient within two years.

Additionally, this bill empowers the Attorney General to train federal, state, and local law enforcement personnel to discern the difference between palliative care and euthanasia. Most recently, though, it was the Attorney General who specifically exempted the physicians of Oregon from certain provisions of Title 21, the very Title this legislation intends to augment. Under the tutelage of the

Attorney General, it would thus become the federal police officer's role to determine at which point deaths from pain medication constitute assisted suicide.

To help the health care professionals become familiar with what will become the new federal medical standard, the bill also authorizes \$24 million dollars over the next five years for grant programs to health education institutions. This is yet another federal action to be found nowhere amongst the enumerated powers.

Like the unborn, protection of the lives of palliative care patients is of vital importance. So vitally important, in fact, it must be left to the states' criminal justice systems and state medical licensing boards. We have seen what a mess results from attempts to federalize such an issue. Numerous states have adequately protected both the unborn and palliative care patients against assault and murder and done so prior to the federal government's unconstitutional sanctioning of violence in the Roe versus Wade decision. Unfortunately, H.R. 2260 ignores the danger of further federalizing that which is properly reserved to state governments and, in so doing, ignores the Constitution, the bill of rights, and the insights of Chief Justice Rehnquist. For these reasons, I must oppose H.R. 2260, The Pain Relief Promotion Act of 1999.

PREFERENTIAL MOTION OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The Clerk will report the motion.

The Clerk read as follows:

Mr. OBEY moves that the Committee do now rise and report the bill back to the House with a recommendation that the enacting clause be stricken out.

Mr. OBEY. Mr. Chairman, many of us are against assisted suicide. But, in my view, in an attempt to get at that problem, this bill is a blunder and it pushes us away from added protection for patients.

I am for the amendment that is being considered. Because what this bill does is to say that, when a doctor prescribes pain killing agents, the Drug Enforcement Agency could look over the doctor's shoulder and threaten that doctor with 20 years in jail.

That is an outrageous Big Brother intrusion in the doctor-patient relationship. Nobody, not government, not religion, not politicians have the right to tell any individual how much pain they have to endure and how it has to be managed. That is my business and my doctor's business. It is not yours or yours or yours or anybody else's.

Does anybody really believe that today there is too much bias in medicine toward relieving pain? If they think that is the case, they have not been in many hospital rooms lately.

The fact is that today incentives are in the opposite direction to make doctors so careful that they often will err on the side of not enough pain relief. This bill would make that problem worse. That is why I am opposed to it, and that is why I support the amendment.

Mr. COBURN. Mr. Chairman, I seek time in opposition, and I yield to the gentleman from Florida (Mr. CANADY).

Mr. CANADY of Florida. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to bring to the attention of the House why we are here today, and that is because the Attorney General of the United States has made a determination as the Attorney General that physician-assisted suicide is legitimate medical practice. That is what she decided.

Now, that was a break with tradition. That was a break with the policy of the Federal Government. She decided that. And we are here today, as the Congress, to express our view legislatively on whether she was right or wrong. I submit to the House that she was wrong and this House should not endorse the position of the Attorney General that physician-assisted suicide is legitimate medical practice.

That is the real issue before us here today. There has been a lot of things talked about, but I want to thank the gentlewoman from New Jersey (Mrs. ROUKEMA) for bringing out the fact that the Department of Justice has endorsed the provisions of this bill that deal with palliative care.

There have been many things said about those provisions, criticizing them and saying they are going to create additional problems. But the Department of Justice has written in a letter of October 19 that H.R. 2260 would eliminate any ambiguity about the legality of using controlled substances to alleviate the pain and suffering of the terminally ill by reducing any perceived threat of administrative and criminal sanctions in this context. The Department, accordingly, supports these portions of H.R. 2260 addressing palliative care.

This is a very important statement coming from the Department of Justice, and I think the Members should evaluate some of the attacks that have been made on this bill and look at what the Department of Justice, which does not support the overall bill, I hasten to add, they do not support provisions with respect to the effect on Oregon. That is very clear, as well. But palliative care they support.

I suggest that the Members ask themselves as they consider how they are going to vote on this whether we wanted to say that the Federal Government will support and encourage assisted suicide or are we going to authorize the use of controlled substances for the purpose of killing human beings?

It is the Federal Government that authorizes the use of controlled substances. We have a general prohibition on them. But we allow them to be utilized in certain circumstances. Is it going to be the position of this Federal Government that we will authorize them for the purpose of killing human beings? That is the issue that is before us here today, will we allow this well-

established regulatory scheme governing controlled substances to be undermined in that way. It is my view that to allow it to be used in that way would be to undermine it.

Now remember, when a physician authorizes the use of a controlled substance, he has to take out a special prescription pad is my understanding, a prescription pad that is authorized by the DEA; and on that special controlled substance prescription pad, he is going to write out a prescription to kill somebody.

Now, do we want to put in place a mechanism where that sort of thing takes place? I do not think so. But we have got to decide today, are we going to go on record supporting the decision of the Attorney General that this is a legitimate medical practice, or are we going to say no?

Now, it is very interesting that each of the proponents of the bill say they are against physician-assisted suicide. Well, if they are against physician-assisted suicide, why do they want to allow a Federal regulatory scheme to be utilized in a way that supports and encourages it? Why do we want to authorize the use of federally controlled drugs for physician-assisted suicide if we are opposed to physician-assisted suicide? I think there is a fatal contradiction.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. CANADY of Florida. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I would like to ask the gentleman from Oklahoma (Mr. COBURN) a question.

Whenever he prescribes a controlled substance, does not the DEA review that prescription?

Mr. COBURN. Mr. Chairman, reclaiming my time, absolutely.

Mr. HYDE. Mr. Chairman, if the gentleman will continue to yield, now did my colleagues hear that? Every time he writes a prescription for a controlled substance, the DEA, that horrible gestapo, reviews the prescription and the purpose for it.

Now, therefore, the DEA has a role to play today as we speak in the existing law, and this bill does not change it. It just says to Oregon that they are back in with the rest of the 50 States now.

We do not create a gestapo. We simply say that what exists now will continue to exist, but they cannot use controlled substances to execute people, however directly or indirectly.

Mr. CANADY of Florida. Mr. Chairman, the gentleman from Illinois (Mr. HYDE) is absolutely correct.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. OBEY).

The motion was rejected.

The CHAIRMAN pro tempore. The Chair would advise that both Members have 6½ minutes remaining in the debate.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield 1 minute to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).