approach is most appropriate.

There can be little doubt that technology will continue to advance, and that our capacity to alleviate or cure will increase. Many look to the next decades to provide cures for some of today's most common killers. But this will only reduce the number of people for whom assisted death is an option — it will not eliminate the need to make such decisions. Apart from those whose own conscience will not tolerate such decisions being made other than by, say, God, many recognise the need seriously to address these most difficult and sensitive questions. This need is arguably rendered even more urgent by the fact that the groups most likely to be affected by our conclusions are disproportionately made up of the already vulnerable, whose dignity and rights must be protected by those to whom they — or their loved ones — will turn in times of need. Certainly, as Cassel and Meier argue,[27] we would do well to give our doctors greater founding in moral issues, but we also perhaps need — all of us — to address the same questions. But accepting that there is a right to choose assisted death should not blind us to the likelihood that there remain resource allocation problems which may particularly affect these vulnerable groups and are related to the discriminatory use and/or availability of health care resources. Where decisions are made on behalf of patients, we should be careful that an appropriate test is used that the decision does not simply reflect resource based difficulties.

A clinical judgment is not inevitably value-free — a decision not to treat is not only a medical decision, nor is a decision to prolong unwanted existence. The picture, then, is complex and, arguably, questions about the individual right to die should be separate and distinct from resource problems, since the ultimate values are human and not clinical. The final word will be left to the distinguished Australian jurist, Michael Kirby:[28]

> 'To insist upon the prolongation of life, as nothing more than the coursing of blood and bodily functions, and to do so in circumstances of intractible and irremedial pain, is so offensive to the very purpose of human life that it calls out for relief.'[29]

Surely it is not beyond the wit of us all to respond wisely and fairly to this plea. Later this year voters in the state of Washington will be given the opportunity in a referendum to address themselves to Initiative 119. One key aspect of this Initiative — and certainly one of its more contentious elements — is that it seeks to allow competent, terminally ill patients the right to ask for assistance in dying. I await the outcome of their deliberations with interest. □

Footnotes

1 B Jennett, 'Decisions to Limit the Use of Technologies that Save or Sustain Life', Stanley Davidson Lecture, 9 May 1990; see also H J Aaron and W B Schwarz, *The Painful Prescription: Rationing Hospital Care*, Washington, DC, The Brookings Institutions, 1984; S A M McLean and G Maher, *Medicine, Morals and the Law*, Aldershot, Gower, 1983 (reprinted 1985), ch 10.
2 A Leaf, 'Medicine and the Aged' *297 New England Journal of Medicine*, 887 (1977).
3 Loc cit, p 887.
4 Cf note 2, *supra*.
5 Cf J Avorn, 'Benefit and cost analysis in geriatric care: turning age discrimination into health policy' *310 New England Journal of Medicine* 1294 (1984).
6 B Jennett, 'High Technology Medicine and the Elderly', Editorial, *3 International Journal of Technology Assessment in Health Care* 491 (1987) at p 492; see also, B Jennett, 'The Elderly and High Technology Therapies', in N Wells and C Freer (eds), *Health Problems of An Ageing Population*, London, Macmillan, 1988.
7 M Angell, 'Prisoners of Technology: The Case of Nancy Cruzan' *322 New England Journal of Medicine* 1226 (1990).
8 At p 1228.
9 Loc cit, p 888.
10 Loc cit (1990), 410.
11 Eg Natural Death Act 1976 (California).
12 72 OR (2d) 1990 417.
13 At p 426.
14 At p 428.
15 *Bulletin of Medical Ethics*, October 1990, no 62, at p 20; C K Cassel and D E Meier, 'Morals and Moralism in the Debate over Euthanasia and Assisted Suicide' *323 New England Journal of Medicine* 750 (1990).
16 Cf *The Scotsman*, 3 June 1988.
17 Glover, op cit, says as follows: 'This doctrine can be summarised crudely as saying that it is always wrong intentionally to do a bad act for the sake of good consequences that will ensue, but that it may be permissible to do a good act in the knowledge that bad consequences will ensue. The doctrine is explained in terms of the difference between intended and foreseen consequences' (at p 87); McLean and Maher, op cit, also point out that '. . . it should be noted that in the principle of double effect in Catholic theology emphasis is placed on three factors in addition to the requirement that the good effect and not the evil effect is directly intended. These are (1) the action is itself good or morally indifferent; (2) the good effect is not produced by means of the evil effect; and (3) there is a proportionate reason for allowing the foreseen evil to occur' (at p 59).
18 *Cruzan v Director, Missouri Dept of Health* 110 S Ct 2841 (1990).
19 G J Annas, 'Nancy Cruzan in China' *20 Hastings Centre Report*, Sept/Oct 1990, 39.
20 Loc cit (1990), 410.
21 Loc cit.
22 Cf Fineberg, et al, 'Care of Patients With a Low Probability of Acute Myocardial Infarction: Cost Effectiveness of Alternatives to Coronary-Care Unit Admission', *322 New England Journal of Medicine*, 1225 (1990).
23 *The Lancet*, 8 September 1990, 610.
24 Loc cit, p 611.
25 P 613.
26 Id.
27 Loc cit.
28 M Kirby, 'Bioethics '89: Can Democracy Cope?' 18 1-2 Spring/Summer 1990 *Law, Medicine and Health Care*, 5.
29 P 6.

Foreign Legal Consultants in Connecticut

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On 21 June 1991, the judges of the Connecticut Superior Court adopted certain revisions to the Connecticut Practice Book[1] which allowed the creation of a category known as 'foreign legal consultants' effective 1 October 1991. This change allowed Connecticut to join the ranks of other states within the United States that allow foreign lawyers to practise within their boundaries.[2] These rule changes were supported by the United States Department of Commerce as part of their efforts to remove restrictions on United States lawyers practising

American law overseas. The American Bar Association supported these rules by analogy.[3]

The Connecticut Bar Association's Section of International Law and World Peace ('Section') frankly did not perceive a great demand for foreign lawyers to practise in Connecticut. Even though a large number of major United States corporations are based in Connecticut, many foreign law firms prefer to be in New York. The main objective of the proposal was to put Connecticut lawyers on an equal footing with New York lawyers.

Many foreign countries require reciprocity before they will allow an American lawyer to practise in their country. Old decisions by the Connecticut Bar Association found it to be an unauthorised practice of law for a foreign lawyer to practise foreign law in Connecticut. This decision blocked Connecticut lawyers from opening law offices overseas because they could not meet the reciprocity requirements. New York law firms could meet those reciprocity requirements. This created a difficult position for Connecticut lawyers because their New York competitors with branch offices in Connecticut could operate overseas while Connecticut lawyers could not. This inequity needed addressing.

The foreign legal consultant rules generally follow Connecticut's rules concerning admission to the bar. Section 24C gives the bar examining committee several important functions. First, the applicant must file his application for a licence as a foreign legal consultant with the administrative director of the bar examining committee. The court (not the committee) may vary the requirements of an application upon a showing that it is impossible (or at least very difficult) to obtain a certificate of good standing in the foriegn country or two letters of recommendation. The bar examining committee shall investigate the qualifications' moral character and general fitness of the applicant. This can include a character report from the National Conference of Bar Examiners. Upon the recommendation of the Bar Examining Committee, the court may license the foreign legal consultant without examination.

The Superior Court Rules Committee considerably modified the Section's initial proposal concerning the scope of a foreign legal consultant's practice. The original proposal used the prohibited list of activities from the New York and District of Columbia rules. The Connecticut Bar Association's Committee on the Unauthorised Practice of Law was concerned about using only the prohibited list of activities and requested the additional requirement that the foreign legal consultant may consult only on the laws of his home country. This change was made. In the process, the Superior Court Rules Committee dropped the list of prohibited activities. The rules now simply require that the foreign legal consultant does not hold himself out as a member of the Connecticut Bar and may only use the title 'foreign legal consultant'.

This means there is no direct prohibition for a foreign legal consultant to appear in court, prepare a deed affecting real estate in the United States, prepare a will or trust instrument affecting the disposition of property in the States on death, prepare an instrument relating to the administration of a decedent's estate, prepare any instrument concerning the marital relations, rights or duties of a resident of the United States, prepare an instrument concerning the custody or care of children of a United States resident. Although foreign lawyers may be concerned about the restriction that they only can practise their home country's law, Connecticut lawyers have long considered themselves unqualified to comment on the laws of any other jurisdiction. Connecticut lawyers routinely refused to give opinions about New York, Massachusetts or Rhode Island laws, even though these jurisdictions touch Connecticut.

A foreign legal consultant must execute and file with the clerk a written commitment to observe the Connecticut Rules of Professional Conduct, undertake to provide evidence of professional liability insurance in such amount as the court may prescribe and sign a consent to service of process. The foreign legal consultant is also obligated to comply with 'the rules of practice regulating the conduct of attorneys in the state'. This will probably be construed as requiring the foreign legal consultant to comply with Practice Book Section 27A et seq, which regulates the use of client's funds. Each client's fund account must be registered with the statewide grievance committee. Failure to register the account constitutes professional misconduct. These accounts may only be maintained at financial institutions which agree to notify the statewide grievance committee if an instrument is presented against the trust account when it has insufficient funds.[4] This procedure is considered a very important weapon in detecting the embezzlement of client's funds.

Foreign legal consultants are subject to the same disciplinary procedures as Connecticut attorneys. The procedures for investigating unethical conduct are identical. The requirement for insurance was considered very important in light of the risk of flight if a foreign legal consultant commits professional misconduct. The rules also provide the form of the oath for the foreign legal consultant.

Contrary to any other state, the rules concerning foreign legal consultants were enacted pursuant to an express statutory grant of authority contained in Public Act 91-324: International Obligations and Procedures. This delegation of authority avoided the debate on whether or not the Superior Court Rules Committee had authority to regulate foreign legal consultants since foreign legal consultants did not actually practise before the court. This legislation was merely one in a long line of Connecticut legislation on international law.[5] The Connecticut General Statutes now contains Title 50a, which codifies Connecticut considers itself at the forefront of states preparing to compete internationally. Updating Connecticut's legal rules was considered important in meeting this challenge. □

Footnotes

1 The Connecticut Practice Book contains the civil, criminal and appellate rules for all Connecticut courts. It also contains all requirements for the admission of attorneys to the Connecticut Bar.

2 Alaska, California, District of Columbia, Hawaii, Michigan, New Jersey, New York, Ohio, Oregon, Texas.

3 The American Bar Association specifically endorsed the District Columbia rules on foreign legal consultants. Since there were no material differences between the proposed Connecticut rules and the District of Columbia rules, the Superior Court Rules Committee viewed the American Bar Association's comments as an informal endorsement.

4 It is immaterial whether or not the instrument was honoured.

5 PA 87-369: The Uniform International Wills Act. PA 88-39: Uniform Recognition of Foreign Money Judgments Act. PA 89-134: Uniform Foreign Money Claims Act. PA 89-179: UNCITRAL Model Law on International Commercial Arbitration. House Joint Resolution 3 (1990) — International Child Support. PA 90-19: Determination of Foreign Law and Judicial Notice of Certain Acts, Regulations and Ordinances. PA 90-202: Uniform Commercial Code Article 4A — Funds Transfer. PA 91-297: Adoption of the Uniform Fraudulent Transfer Act. PA 91-304: Act Revising Articles 3 and 4 of the Uniform Commercial Code Concerning Negotiable Instruments and Bank Deposits and Collections. Practice Book § 109A(b) Proof of foreign law.