The euthanasia debate in The Netherlands is again going through an upheaval, now that the government has sent a proposal for legalizing the practice to Parliament. (While the Dutch courts have agreed for many years not to prosecute cases of euthanasia as long as certain conditions were met, the practice has never actually been legalized.) The current proposal, scheduled for public hearings in November, 1999, essentially contains the following provisions:

1) In order to be deemed legal, acts of euthanasia must be performed according to “careful medical practice.” Requests for euthanasia must be voluntary, well-considered, and persistent, and be made by patients who are experiencing unbearable suffering without hope of improvement. More than one physician must be involved in the decision, and both patient and physician must agree that euthanasia is the only reasonable option.

2) All cases of euthanasia must be reported to and evaluated by regional committees composed of a lawyer, physician, ethicist/philosopher, and deputy members.

3) Acts of euthanasia and assisted suicide will not be punishable if performed by a physician who has complied with the conditions in (1) and has reported the action to the coroner.

4) The coroner attending to a euthanasia case must send his or her report to the Public Prosecutor, as well as to the regional euthanasia committee. The report must demonstrate that all the requirements for legal euthanasia have been observed. In the event of severe infraction, the Prosecutor will not give consent for burial or cremation until further investigations have been conducted.

In addition to these rather familiar provisions, the proposal adds two others involving children and advance declarations:

5) Children between the ages of 12 and 16 must have their parents’ consent in order for a request for euthanasia to be granted. However, in cases deemed “exceptional,”—e.g., those marked by serious and incurable disease or intolerable and unrelenting suffering—a physician may grant a request for euthanasia even without parental consent. Furthermore, requests for euthanasia made by children who are 16 or 17 years of age need never be accompanied by parental consent, though the parents should be involved in the decision-making.

6) The proposal also seeks to establish a legal basis for advance euthanasia declarations via a type of “living will” in which a competent patient would request euthanasia in the event he or she became mentally incompetent. Though such a statement does not imply that a physician has a duty to perform euthanasia at any moment, it is likely to increase the pressure on the physician to do so when a patient has become severely demented—especially when the patient’s family insists that his or her life be terminated.
An increasing number of couples today are facing the pain and frustration associated with infertility. As a result, many are turning to reproductive technologies to assist them in fulfilling their desire for a child. The physical and financial costs of assisted reproduction are often high, and the costs to the embryo are often greater still. For example, many in vitro fertilization clinics routinely create more embryos than a couple wishes to have implanted. Such "surplus" embryos are then either immediately discarded, frozen and kept in storage, or donated to research (in which case, their ultimate end will be destruction). It is estimated that there are currently over 100,000 frozen embryos stored in United States alone. Though freezing would seem to be a better fate than immediate destruction or donation to research, the very fact that so many embryos are in storage reduces the likelihood that all of them will eventually be implanted and carried to term. Accordingly, those who advocate research on stem cells obtained by destroying human embryos argue: "Because there are so many embryos in storage which will likely never be implanted, it is morally acceptable to destroy such embryos if medical benefit might result." Furthermore, it is the policy of some clinics to automatically destroy embryos after they have been in storage for a specified number of years—robbing them of the chance to be born.

Legalizing Euthanasia in The Netherlands (continued from page 2)

A number of objections have been raised against this proposal for legalizing euthanasia. First, the proposal does not adequately safeguard the public. The depersonalization of intentional killing by physicians constitutes, in itself, a serious violation of the legal and moral norms of society. Moreover, whenever the committee rules favorably on a case by deeming an act of killing legal, the Public Prosecutor's ability to monitor physician conduct will be compromised. The Prosecutor will not even see the report of the physician involved in the case. Furthermore, it is likely that cases in which the legal requirements have not been fulfilled will go unreported, as is the case now. Data on reported cases are provided by the physicians who performed the euthanasia; therefore, determinations of whether the legal requirements have been met may often be biased as well. Adequate control will be impossible.

Second, such legalization will lead to a broader acceptance and increased practice of euthanasia, which will dramatically change the nature of the patient-physician relationship and terminal/palliative care. Once euthanasia becomes a legal option, a patient afflicted with terminal illness or unbearable suffering may have to justify not being euthanized. At the same time, legalization will undermine the efforts and creativity of those committed to providing palliative care to a terminal patient. Such unintended outcomes seem inevitable in a health care system characterized by increasing costs and the need to make choices regarding resource allocation.

Third, legalized euthanasia is incompatible with the fundamental role of the physician as healer. As a result, it concerns society as a whole and cannot be considered as a matter which affects only patients and physicians.

Fourth, accepting the euthanasia of minors 12 years of age and older seriously overestimates the capacity of such persons to evaluate the meaning and consequences of a request to be killed. It places an unacceptable burden on these young people and may well disturb society's confidence in the relationship between physicians, patients, and child. Unless we are prepared to give minors the right to do everything else in life that an adult can do, giving them the right to end life itself seems out of place.

Fifth, legalizing the euthanasia declaration designed to permit a competent patient to request euthanasia in advance, should he or she later become incompetent, is likely to foster a broadening of the requirement of 'unbearable suffering' to 'loss of dignity'.

Finally, in the event that euthanasia is legalized, health care professionals who reject euthanasia will likely find it difficult to obtain jobs in certain areas of the health care field.