

Death with Dignity: Myths and Truths

Myth: 80% of lethal prescriptions are written by physicians associated with Compassion in Dying or End-of-Life Choices because primary physicians are unwilling.

Truth: In all the research that has been conducted on the Oregon Death with Dignity law, there is nothing to support this claim. No reports, filed publicly or privately, list the names of physicians associated with organizations such as Compassion in Dying or Hemlock. In fact, 154 different physicians, 46% of whom were oncologists, wrote 265 prescriptions under the law in the first six years it has been implemented and over one-third of those prescriptions were not used. ([Oregon Department of Human Services](#))

Researchers at Oregon Health and Science University have found that physician support for the law has increased since its passage and that physicians get their information about the law from a variety of sources.

According to a survey of Oregon physicians, published in the Journal of the American Medical Association (JAMA):

A total of 1349 respondents (51%) supported the Death with Dignity Act, 832 (32%) opposed it, and 449 (17%) neither supported nor opposed the law. Four out of 5 claimed they had not changed their views on the law since it passed in 1994. For those who did change their view, almost twice as many reported that they had become more supportive (13%) than more opposed (7%). Fourteen percent of physicians reported that they had become more willing to prescribe a lethal medication since 1994, but 8% were less willing. Fifty-three percent of respondents would consider obtaining a physician's assistance to end their own lives if terminally ill, including 88% of those who were willing to prescribe a lethal medication for a patient.

Among the 886 physicians who were willing to prescribe, 23% had received information from a guidebook produced by the Oregon Health Sciences University Center on Ethics in Health Care entitled *The Oregon Death with Dignity Act: A Guidebook for Health Care Providers*, 21% had received information on the Death with Dignity Act from other physicians, 11% had received information from the Oregon Medical Association, 9% from a group that advocates for persons who elect assisted suicide, and 8% from experts or resource persons in their health care system. (Linda Ganzini, M.D., et al. "Oregon Physicians' Attitudes About and Experiences

With End-of-Life Care Since Passage of the Oregon Death with Dignity Act." *Journal of the American Medical Association*, Vol. 285, No. 18, May 9, 2001.)

Myth: There is no requirement in the Death With Dignity Act that physician-assisted dying be a "last resort" or even that the patient have any symptoms at all. The only requirement is that the patient has "less than six months to live," and such six-month predictions often turn out to be inaccurate.

Truth: The law requires that the physician offer to the patient comfort, palliative and hospice care (87% of those who used the law died in hospice care; 13% declined such care). Most people cling to life as long as life is tolerable. In Oregon, "1 in 10 requests for a lethal prescription resulted in assisted suicide." (Linda Ganzini, M.D., et al. "Oregon Physicians' Attitudes About and Experiences With End-of-Life Care Since Passage of the Oregon Death with Dignity Act." *Journal of the American Medical Association*, Vol. 285, No. 18, May 9, 2001.)

The Oregon law requires the agreement of two physicians that the patient is within six months of death. Such a diagnosis is not arrived at casually. In this, as in other aspects of their practice, doctors are expected to meet community standards of care. To not do so would jeopardize their license to practice medicine. The Oregon Death with Dignity law explicitly states, "No provision... shall be construed to allow a lower standard of care for patients in the community where the patient is treated or a similar community." (Oregon Revised Statutes 127.800 to 127.897, The Oregon Death with Dignity Act) The ability to accurately determine a six-month prognosis is widely accepted in the medical community, and is in fact used to determine eligibility for hospice services.

Myth: Only 22% of the 246 reported cases of PAS in Oregon in the first eight years say they have unrelieved pain or are concerned about it; the vast majority list psycho-social reasons for their suicide.

Truth: Pain is only one element in this complex equation. Beyond pain, for most terminally ill people, it is the loss of autonomy, quality of life, and control of bodily functions that becomes intolerable. For an in-depth exploration of these issues, see Oregon Physicians' Perceptions of Patients who request assisted suicide and their families. (Linda Ganzini, et al. *Journal of Palliative Medicine*. Vol 6, Number 2, 2003.)

Myth: The Attorney General of Oregon has already issued an opinion that the law probably violates the ADA since it discriminates against patients who can't swallow pills.

Truth: The Attorney General of Oregon has not issued such an opinion. The law has never been challenged on these grounds.

Myth: One of the authors of the law says she thinks the wording can be interpreted to allow the lethal medication to be delivered “by infusion.”

Truth: The Oregon law explicitly prohibits “lethal injection, mercy killing or active euthanasia” (Oregon Revised Statutes 127.800 to 127.897, The Oregon Death with Dignity Act) The medication must be self-administered.

Myth: The “safeguard” of a second opinion is easily obtained by shopping around.

Truth: The second opinion, as required by law, is made by a highly qualified Oregon physician, generally an internist, pulmonologist or oncologist. More than 100 individual physicians have been involved in providing the consulting (second) opinions for the 171 patients who took the medication in the first six years.

Myth: The “safeguard” of a psychiatric consultation is optional, rarely used, and appears to be pro forma.

Truth: Fourteen percent of the 246 patients who used the law had undergone psychiatric or psychological evaluation.

Myth: The numbers reported by the Oregon Health Division suggest that all is going smoothly. However media interviews with families and professions reveal instances of “doctor shopping” to get the prescription, family pressure on the patient, prescriptions written for patients with dementia, family “assistance” for someone unable to swallow the pills, a prescription written by an HMO medical director when his own physicians were unwilling.

Truth: These assertions are not based on fact. In every case, follow-up articles and investigations into any possible abuse or misuse of the law have revealed the inaccuracy of the initial portrayal by the media. The annual reports prepared by the Oregon Department of

Human Services (DHS) have been published in the New England Journal of Medicine (Vol. 348, No. 10, 3/6/2003). Researchers at Oregon Health Science University have conducted extensive research independent of the DHS reports that have been published in the New England Journal of Medicine, Journal of the American Medical Association, and the Journal of Palliative Medicine.

Myth: Reporting to the state of Oregon is “required,” but there is no oversight and no punishment for failure to report. It is clear there is under-reporting: 3 different reports from the Netherlands say 16 – 25% of patients who receive the same dose of the same drug as is used in Oregon do not die; the Dutch doctors then legally give a lethal injection. What is happening to these unreported “failures” in Oregon?

Truth: Doctors cannot qualify for the law’s “safe harbor” provisions if they do not report use of the law to the Oregon Department of Human Services (DHS). A doctor who does not report to DHS would be subject to professional disciplinary action and criminal charges. Everyone who has self-administered the medication has died. No one who has taken the medication has awakened.

Analysis independent of the DHS reports has verified their findings. See: Oregon Physicians' Attitudes About and Experiences With End-of-Life Care Since Passage of the Oregon Death with Dignity Act by Linda Ganzini, M.D., et al. *Journal of the American Medical Society*. Vol. 285, No. 18. May 9, 2001.

The data cited from the Netherlands date back to when assisted suicide was not legal, it was simply de-criminalized. This unregulated situation led to the “failures” that are referenced here. Recently, the Netherlands recognized this problem and has sought to codify the practice in a way that is more like what Oregon has done.

Specific Myths and Truths

Myth: Kate Cheney was evaluated by her physician and by two mental health professionals, all of whom felt she was not competent to make her own decisions and was being pressured by her daughter; but the medical director of her HMO ignored these three opinions and wrote a lethal prescription for her.

Truth: The facts are twisted. Kate was not determined to be incompetent to make the decision to use the law. One mental health care professional did state that Kate seemed indecisive and he was concerned that her daughter was a strong advocate for Kate, but he did not say that she was incompetent or that she was "pressured by her daughter" into considering using the law. (This was a meeting where Kate was on morphine and it should be noted that English was her second language.) The other

professional concluded she was capable of making the decision. Kate's physician did not at anytime claim she was incompetent. He simply did not believe in the law and refused to participate, which is his right. A physician who supports the right of patients to consider the option of using the law did write her the prescription after determining she was competent and under no duress. He at no time ignored the opinions of the other physicians involved. He in fact took extra care in evaluating Kate's decision making capacity and concluded she was mentally competent and made her decision rationally.

Myth: Joan Lucas had advanced Lou Gehrig's disease and tried unsuccessfully to commit suicide; her physician requested a psychology consultation; she and her family "cracked up" over the silly questions; the psychologist felt she was depressed, but blamed this on her illness; her physician gave her a lethal prescription.

Truth: Joan's case was fully disclosed in an article that appeared in the Medford Mail Tribune. Joan attempted to take her life with an overdose of pills because her physician initially refused to support her in her decision to use the law. She did not know she could seek help elsewhere. She did in fact receive a psychological evaluation by a licensed psychologist who determined that she was mentally competent to make the decision to use the law and that she was not depressed. The reference to the statement that one of the family members said they "cracked up" over the silly questions asked by the psychologist was not said because they questioned the psychologist's abilities, but because they knew if the psychologist knew their mother as they did he would not have to ask such silly questions. Joan was a very strong willed, determined woman who made a rational decision to use the law. She was very much in control of her life and destiny. In fact, up to an hour prior to taking the medication she was emailing all of her friends with her loving good-byes.

Myth: Another patient was too ill to swallow the lethal pills, so his family "helped him out."

Truth: The one phrase made by Pat Matheny's brother-in-law after he died is never fully explained by the opponents and is left dangling in the air so as to imply that in someway an illegal act was committed. As we know the "help" provided was simply the act of Pat's brother-in-law holding Pat's head up so as to keep it steady while he drank the medication through a straw. The case was thoroughly investigated by the

local law enforcement authorities at the urging of the opponents to the law. The state attorney's office concluded no criminal act was committed.

Myth: A woman called "Helen" was felt to be depressed by two MD's, but her husband made a phone call to a suicide assistance group and found another doctor who was willing to write a lethal prescription for her.

Truth: Helen is the alias given to a patient of Dr. Peter Reagan. He has published this story in several medical magazines. Dr. Reagan fully complied with the law. Helen's MD's did say she was sad about her pending death, but that it was a slight depression that in no way interfered with her ability to make a rational decision to use the law. In addition, neither physician wished to assist "Helen" because they did not believe in the law, not because they thought she was not competent. One of "Helen's" physicians recommended to her and her husband that they call Compassion in Dying of Oregon for further assistance, which they did. CIDO in turn contacted Dr. Reagan who agreed to assess "Helen's" case to determine if she was competent. He said if she were competent he would assist her in using the law. The opponents of the law seem to think that it is wrong for patients to seek assistance in locating cooperating physicians once their own physician refuses to help them. In the practice of medicine second and even third opinions of diagnoses and prognoses are encouraged and are not considered inappropriate.

Myth: Even though the bill says death resulting from swallowing lethal pills "shall not be construed for any purpose to constitute suicide," it is obvious to everyone that it really is suicide, comparable to a self-inflicted gunshot wound. This strange legal fiction is in the bill merely to protect the insurance industry.

Truth: There are two reasons why the bill states that using the Act is not "suicide." One reason involves insurance companies, but not so as to protect the insurance industry, but instead to protect patients so that claims for life or health insurance proceeds cannot be denied by the insurance companies who attempt to deny coverage by claiming that using the law is suicide. The other reason is to make certain that the stigma of a violent suicide cannot be attached to the actions of a person who uses the Act.

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