

# Oregon Physician-Assisted Suicide

Theory	vs Practice
The issue is patient autonomy.	<ul style="list-style-type: none"> <li>• Only 1 request in 6 results in a prescription<sup>1</sup>.</li> <li>• It's about physician autonomy and/or protection from liability.</li> </ul>
Patients mostly want assurance that prescription will be available when they want it; only 1 in 10 will actually be filled.	<ul style="list-style-type: none"> <li>• 129 of 198 (65%) prescriptions written in the first 5 years resulted in patient death<sup>2</sup>.</li> </ul>
The decision is between a patient and his or her own physician.	<ul style="list-style-type: none"> <li>• Only 34% of Oregon MD's willing to prescribe<sup>3</sup>.</li> <li>• 75% of patients who have died received assistance from Compassion in Dying<sup>4</sup>.</li> <li>• Median duration of professional relationship before death is 13 weeks (1/4 &lt; 1 month)<sup>5</sup></li> </ul>
<p>The law only allows patient-administered lethal drug</p> <ul style="list-style-type: none"> <li>• no lethal injection</li> <li>• no assistance</li> </ul>	<ul style="list-style-type: none"> <li>• Dr. Peter Rasmussen (oncologist) says he emptied capsules &amp; stirred drug into pudding for Wanda McMaster<sup>6</sup> (with ALS); he also prepared the mixture for Barbara Houck (also with ALS) and one of her sons spooned it into her mouth as another gave her water to wash it down<sup>7</sup>. Why is an oncologist "treating" neurology patients?</li> <li>• Barbiturates used have onset of action 10-15 min., duration of action 4 hrs., but several deaths reported &lt;5 minutes or &gt;12 hours after ingestion<sup>8</sup>. What did they die from?</li> <li>• Patrick Matheny with ALS was unable to swallow drug, so brother-in-law "helped him"; unwilling to describe the "help"; was not prosecuted<sup>9</sup>.</li> <li>• In response to Matheny case, Deputy Attorney General wrote an opinion that the law may violate the ADA because it precludes "equal access", and thus may have to be expanded to lethal injection<sup>10</sup>.</li> <li>• Barbara Coombs Lee, one of the authors of the bill, wrote in the <u>Oregon Health Law Manual</u> that delivery of drug by inhalation or infusion might be "within the scope of the Act."<sup>11</sup></li> </ul>
<p>PAS will be regulated and monitored<sup>12</sup>.</p> <ul style="list-style-type: none"> <li>• MD's required to document all steps and report all cases</li> <li>• OHD will make annual statistical report</li> </ul>	<ul style="list-style-type: none"> <li>• OHD has no regulatory authority or resources to detect under-reporting or non-compliance.</li> <li>• Law has no penalty for MD who fails to report<sup>13</sup>.</li> <li>• Annual OHD reports have not included several cases of abuse, expansion, and complications reported (voluntarily) by families in newspapers</li> </ul>

<ul style="list-style-type: none"> <li>OHD will report abuses to Board of Medical Examiners</li> </ul>	<p>and not contested by PAS advocates.</p> <ul style="list-style-type: none"> <li>The only MD's interviewed for the OHD reports are those who have written lethal Rx's</li> </ul>
<p>The law has safeguards that will prevent abuses and ensure:</p> <ul style="list-style-type: none"> <li>patient has &lt; 6 months to live</li> <li>patient is competent to make decision</li> <li>patient is not depressed</li> <li>patient is not coerced.</li> </ul>	<ul style="list-style-type: none"> <li>27% of Oregon MD's willing to write Rx admit they're not confident of 6-month prognosis<sup>14</sup>.</li> <li>OHD reports "no. days between initial request and death --- range 15-466"<sup>15</sup></li> <li>Kate Cheney was found to "lack the capacity" by psychiatrist (consultation report released to newspaper) and to have "cognitive deficits" by psychologist, but her HMO med. dir. wrote Rx.<sup>16</sup></li> <li>Only 6% of OR psychiatrists are confident they can diagnose depression after 1 visit<sup>17</sup></li> <li>1<sup>st</sup> patient to die under Act was refused Rx by her own and another MD because she was depressed; Rx written by Compassion in Dying MD<sup>18</sup></li> <li>both psychiatrist and psychologist felt Kate Cheney's daughter was pressuring her<sup>19</sup></li> </ul>
<p>Virtually no complications reported in first 5 years by OHD.</p>	<ul style="list-style-type: none"> <li>MD not present, may not know of complications.</li> <li>1 family called 911 when patient had unspecified symptoms, was taken to ER and resuscitated<sup>20</sup></li> </ul>
<p>Drugs used are safe &amp; effective.</p>	<ul style="list-style-type: none"> <li>Same dosage of same drugs used in Netherlands for physician-assisted suicide, and 3 different reports found 16%<sup>21</sup>, 20%<sup>22</sup> and 25%<sup>23</sup> "failure rate" (patient didn't die) so that subsequent lethal injection had to be used to cause death.</li> </ul>
<p>Economic factors are not the issue; only 2% of patients who have died under the Act report finances as a reason.</p>	<ul style="list-style-type: none"> <li>OR Medicaid pays for physician-assisted suicide, but denies payment for &gt;150 medical services<sup>24</sup></li> <li>Qual Med HMO pays for physician-assisted suicide, but has a \$1,000 cap on hospice care<sup>25</sup>.</li> <li>Med Director of Kate Cheney's HMO wrote her prescription after 2 of his MD's declined<sup>26</sup>.</li> </ul>
<p>OHD data is reassuring</p>	<ul style="list-style-type: none"> <li>"The Oregon Health Division is charged with collecting information under the Death With Dignity Act but is also obligated to report any cases of noncompliance with the law to the OR Board of Medical Examiners. Our responsibility to report noncompliance makes it difficult, if not impossible, to detect accurately and comment on underreporting. Furthermore, the reporting requirements can only ensure that the process for obtaining lethal medications complies with the law. We cannot determine whether physician-assisted suicide is being practiced outside the framework of the Death With Dignity Act."<sup>27</sup></li> </ul>

	<ul style="list-style-type: none"> <li>• “For that matter, the entire account could have been a cock and bull story. We assume, however, that MD’s were their usual and careful selves.”<sup>28</sup></li> </ul>

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- <sup>1</sup> Ganzini L, et al. Physicians’ experiences with the Oregon Death With Dignity Act. *N Eng J Med* 2000;342:557-63
- <sup>2</sup> OHD data: [www.ohd.hr.state.or.us/chs/pas/ar-tbl-1.cfm](http://www.ohd.hr.state.or.us/chs/pas/ar-tbl-1.cfm)
- <sup>3</sup> Ganzini L, et al. Oregon physicians’ attitudes about and experiences with end-of-life care since passage of the Oregon Death With Dignity Act. *JAMA* 2001;285:2363-9
- <sup>4</sup> Goodwin P. audiotape of Hemlock Society Conference, 1/11/03
- <sup>5</sup> <http://www.internationaltaskforce.org/orstats.htm>
- <sup>6</sup> Associated Press; Salem, OR; 2/24/00
- <sup>7</sup> Frey J. A death in Oregon: One doctor’s story. *Washington Post* 11/3/99
- <sup>8</sup> Hedberg K. Five years of legal physician-assisted suicide in Oregon. *N Eng J Med* 2003;348:961-4
- <sup>9</sup> Barnett EH. Man with ALS makes up his mind to die. *Oregonian* 3/11/99
- <sup>10</sup> Schuman D. Official Oregon Department of Justice letter to Senator Neil Bryant, 3/15/99
- <sup>11</sup> Lee BC, Stutsman ED. “Life & Death Decisions” in Oregon Health Law Manual, Vol 2, 1997; Oregon State Bar
- <sup>12</sup> Oregon Death With Dignity Act. Oregon Revised Statutes 127.800-127.890, 127.895, 127.897
- <sup>13</sup> *American Medical News*. 9/7/98
- <sup>14</sup> *ibid.* Ganzini 2001
- <sup>15</sup> *ibid.* Hedberg 2003
- <sup>16</sup> Barnett EH. Is Mom capable of choosing to die? *The Oregonian* 10/17/99:G1-2
- <sup>17</sup> Ganzini L, et al. Attitudes of Oregon psychiatrists towards assisted suicide. *Am J Psychiatry* 1996;153:1469-75
- <sup>18</sup> Foley K, Hendin H. The Oregon report: Don’t ask, don’t tell. *Hastings Center Report* 1999; May/June:37-42
- <sup>19</sup> *ibid.* Barnett 1999
- <sup>20</sup> *Brainstorm NW* March 2000
- <sup>21</sup> Groenewoud JH, et al. Clinical problems with the performance of euthanasia and physician-assisted suicide in the Netherlands. *N Eng J Med* 2000;342:551-6
- <sup>22</sup> Kimsa GK. Euthanasia and euthanizing drugs in the Netherlands. *Journal of Pharmaceutical Care in Pain & Symptom Control* 1996;4:193-210
- <sup>23</sup> Humphrey D. Letter to editor. *New York Times* 12/3/94
- <sup>24</sup> Gianelli DM. Oregon Medicaid now pays for suicide aid. *Am Med News*
- <sup>25</sup> press release from Physicians for Compassionate Care 2/23/2000
- <sup>26</sup> Reinhard D. In the dark shadows of Measure 16. *Oregonian* 10/31/99:D5
- <sup>27</sup> Chin AE, et al. Legalized physician-assisted suicide in Oregon---the first year’s experience. *N Eng J Med* 1999;340:577-83
- <sup>28</sup> OHD Summary Report 3/16/99, page 2