

# The History of Physician-Assisted Suicide and the True Oregon Experience

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# Definitions

- Euthanasia:

- Death caused by an intentionally lethal dose of medication ordered by a physician and administered by a physician or nurse.

- Voluntary: with patient awareness and consent

- Involuntary: without patient awareness or consent

- Physician-assisted suicide:

- Death caused by an intentionally lethal dose of medication ordered by a physician and self-administered by a patient.

# Why Physician-Assisted Suicide?

- Experience of a tragic death
- Witness of terrible suffering
- Fear about suffering and pain
- Fear about loss of control
- Fear of being a burden
- Fear of the loss of “Dignity”
- Depression at end of life



# Suffering vs. Pain

- Pain: physical, social, psychological, or spiritual
- Suffering: distress that is perceived
  - Increased suffering
    - Loss of control
    - Source of pain is unknown or meaning is dire
    - Pain is chronic or can't be controlled
  - Decreased suffering
    - When pain is understood (childbirth, sciatica, trauma)
- Minor pain + uncertainty = great suffering
- Concern about future is a key feature of suffering

# Limiting extreme suffering: Principle of Double Effect

An action that causes harm (such as the death of a human being) is permissible as a side effect of promoting some good end, *if*

1. Act itself is good
2. Intention is for the good effect
3. Good outweighs the bad
4. Good effect is not *caused* by the bad effect (i.e., the bad is a side effect)

# An Example of “Double Effect”

- End-stage lung cancer
  - Shortness of breath
  - Chest discomfort
  - Extreme anxiety
- Administer IV morphine
  - Easier breathing, decreased pain
  - Much less anxiety, now relaxed
  - This is good medical care
  - May hasten death, but this was not the intention
- Many are confused about this



# “Life-Support”: a Separate Issue

- Artificial Administration Nutrition & Hydration (AAHN) is a separate issue
  - Nasogastric tube feeding or a direct gastric tube
  - Artificial breathing or ventilator support (breathing machine)
- Cardio-pulmonary resuscitation (DNR order)
- These issues are related and very important topics and each is worthy of a separate discussion
- **Today’s discussion: physician-assisted suicide (direct and intentional medical killing)**

For over 2400 years  
the medical profession  
has withstood the allure  
of promoting death.



# Historical Perspective

- Ancient Greece and Rome (500 B.C.)
  - Tolerant of infanticide and active euthanasia
- Hippocrates, the Father of Medicine (460–370 B.C.)
  - Hippocratic Corpus (collection of medical works)
    - “The physician must be able to tell the antecedents, know the present, and foretell the future, must mediate these things, and have two special objects in view with regard to disease, namely, to do good or to do no harm.”\*

# Hippocratic Oath

“I will follow that system of regimen,  
which, according to my ability,  
I consider for the benefit of my patients  
and abstain from what is deleterious  
and mischievous.

I will give no deadly medicine to anyone if asked,  
nor suggest such counsel.”



# The Eugenics Movement

- 1883: Alexander Graham Bell
- 1907: Indiana law  
Forced sterilization of poor, mentally disabled, and “undesirable” citizens to improve humanity’s breeding stock
- 1909: Washington eugenics law  
Forced sterilization of “feeble-minded, insane, epileptic, habitual criminal, degenerates, and sexual perverts.”

# Eugenics in Oregon

1917: Oregon State Board of Eugenics established.

In total, 33 states adopted similar laws.

46 ELEVENTH BIENNIAL REPORT OF THE

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STATE BOARD OF EUGENICS

<i>Name and address</i>	<i>Position</i>
Dr. George E. Houck, Roseburg.....	President State Board of Health
Dr. C. M. Barbee, Portland.....	Vice-President State Board of Health
Dr. C. J. Smith, Portland.....	Member State Board of Health
Dr. W. B. Morse, Salem.....	Member State Board of Health
Dr. J. H. Rosenberg, Prineville.....	Member State Board of Health
Dr. W. T. Phy, Hot Lake.....	Member State Board of Health
Dr. R. E. L. Steiner, Salem.....	Supt. Oregon State Hospital
Dr. J. N. Smith, Salem.....	Supt. Institution for Feeble-Minded
Dr. W. D. McNary, Pendleton.....	Supt. Eastern Oregon State Hospital
A. M. Dalrymple, Salem.....	Warden State Penitentiary
Dr. F. D. Stricker, Portland.....	Secretary, State Board of Health

“Eugenics represents the highest type of public health work and is the greatest service to the human race.

Feeble-minded, paupers, criminals, insane, and morally degenerate are a burden to civilization economically and socially.

Criminals are recruited mainly from certain families. Feeble-mindedness can usually be traced to heredity.”

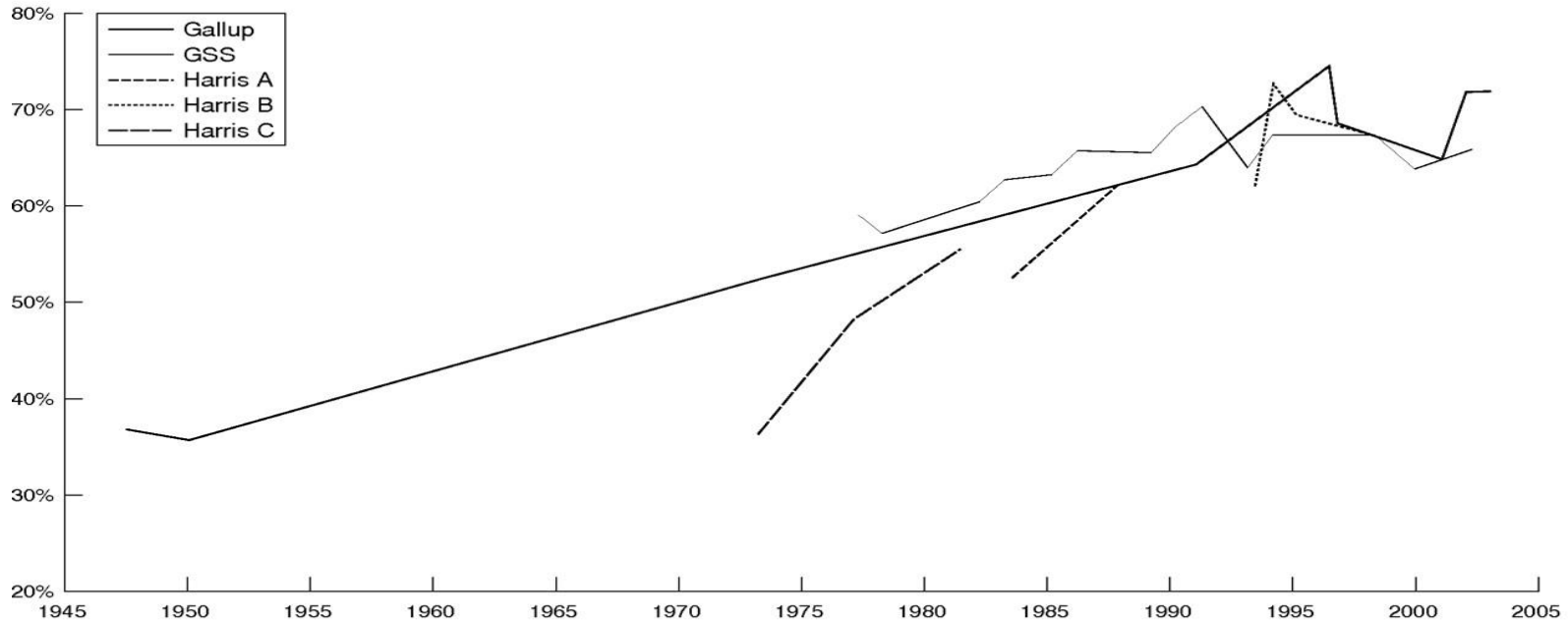
# Public approval of suicide, various polls, 1947-2003

GSS, Gallup – When a person has a disease that cannot be cured, do you think doctors should be allowed by law to end the patient's life by some painless means if the patient and his family request it?

Harris A – Do you think that the law should allow doctors to comply with the wishes of a dying patient in severe distress who asks have his life ended?

Harris B – Do you think that the law should allow doctors to comply with the wishes of a dying patient in severe distress who asks have his life ended, or not?

Harris C – Do you think the patient who is terminally ill, with no cure in sight, ought to have the right to tell his doctor to put him out of his misery, or do you think this is wrong?



Gallup		Harris A		Harris B		Harris C	
1947	37%	1983	53%	1993	63%	1973	37%
1950	36	1987	62	1993	72	1977	48
1973	53			1994	70	1981	56
1990	65			1997	68		
1996	75			2001	65		
1996	69						
2001	65						
2002	72						
2003	72						

Duncan, O D et al. J Med Ethics 2006;32:266-272



# History of Assisted Suicide

- 1960: Euthanasia viewed as “choice”
- 1980: Derek Humphrey forms “Hemlock Society”
- 1990:
  - Derek Humphrey’s best-selling book *Final Exit* stimulates a national “Right to Die” movement
  - Jack Kevorkian assists Oregonian Janet Adkins
  - “Compassion in Dying” is founded and submits several assisted-suicide ballots in Washington and California
- 1994: the Oregon “Death with Dignity” Act passes
  - No other legislation has passed despite attempts in dozens of states, UK, and Canada.

# The Oregon Anomaly





# Oregon's "Death with Dignity" Act

After patient request for a deadly prescription:

- Second opinion required (can be done over phone)
- 2-week waiting period prior to filling
- Doctor writes prescription, usually barbiturates

# Oregon's "Death with Dignity" Act

- No peer-review
- Doctor protected from civil lawsuit
- Reporting is voluntary

**The law provides for doctor-ordered,  
doctor-prescribed, and doctor-directed  
suicide**

# The Romanticized View of Oregon's DWDA



News Media Applaud  
'Death with Dignity'  
of Lovelle Svart  
1945–2007



# Oregon's "Death with Dignity Act"

- No rights for patients
- Legal protection (civil and criminal) for physicians involved in medical killing
- Independent verification not permitted
  - What if they fail to treat depression?
  - What if the patient is not mentally competent?
  - What about influence of those with financial interest?
  - What about coercion of the patient by family?
- No funding for state validation or enforcement

**By asking for a "right to die"  
Oregonians have given physicians  
a license to kill**

# Assisted Suicide and the Vulnerable

## The Case of Kate Cheney

d. 29 Aug 1999, age 85

### A family struggle

## Is Mom capable of choosing to die?

*Kate Cheney says she wants assisted suicide, but doctors and therapists wonder if it's actually her vocal daughter's wish*

Kate Cheney, 85, (left) discovered in May that she had an inoperable, cancerous tumor in her stomach. Her daughter, Erika Goldstein, 64, became a strong advocate for her mother's decision to obtain a lethal prescription with Oregon's physician-assisted suicide law.

KATHRYN SCOTT OSLER/  
THE OREGONIAN



**“Kate’s choices may be influenced by her family’s wishes; and her daughter may be somewhat coercive.” — evaluating psychologist**

# Assisted Suicide and Medical Care

## The Case of Michael Freeland

- History of suicide attempts
- Lung cancer; given a lethal prescription
- Doctor: attendant care at home needed, but...  
might be a "moot point" because he had "life-ending medication"
- Doctor who wrote lethal prescription did nothing to care for his pain and palliative care needs

**This seriously ill patient was receiving poor advice and medical care because he had lethal drugs**



# Assisted Suicide and the Slippery Slope

## 11/3/97 Lawmakers will help doctor in **suicide** case

■ Dr. James Gallant of Corvallis had his license suspended after he gave a lethal injection to a patient with a fatal disease

*The Associated Press*

CORVALLIS — A doctor disciplined for helping a terminally ill patient commit suicide is getting the support of his state legislators.

"We're going to do what we can to help," Sen. Cliff Trow, D-Corvallis, told a crowd of about 150 people Saturday at a rally for Dr. James Gallant.

Gallant was disciplined by the state in connection with the March 1996 death of Clarietta Day, 78. Gallant had diagnosed her illness as a subarachnoid hemorrhage, a fatal condition that left the woman in a coma. While still conscious, Day had instructed family members not to take extraordinary measures to keep her alive.

Even though Day's family supported the doctor's actions as merciful, the state Board of Medical Examiners suspended Gallant's license to practice medicine for two months. The suspension expired Nov. 1.

The Lane County District Attor-

ney's office is investigating Gallant for possible criminal charges.

Gallant received a standing ovation at Saturday's rally. Speaking publicly for the first time since disciplinary proceedings against him began, Gallant thanked patients and friends for their support.

"Anything that occurred, occurred because that's what the patient and family wanted," Gallant said.

The Death With Dignity Act, which voters passed in 1994, allows doctors to prescribe lethal pills to sane, terminally ill patients with less than six months to live. Court challenges have prevented the law from taking effect.

Mail ballots for Measure 51, which would repeal the assisted-suicide law, will be counted Tuesday.

Gallant prescribed a lethal injection of succinylcholine, a drug that paralyzes respiratory muscles, for Day. Injections are not allowed under Oregon's assisted-suicide law.

About 1,000 people have signed a petition demanding that insurance companies keep Gallant on their payrolls and that Good Samaritan Hospital restore his hospital privileges. They also want to change state laws they say resulted in Gallant's being treated unfairly.

*Oregonian*

- Involuntary euthanasia (lethal injection)
- No criminal charges filed
- Medical license suspended for two months



# Assisted Suicide and Trust

## The Case of Mrs. Stevens

- Failing chemotherapy and radiation therapy for lymphoma
- Physician offered ‘extra large’ amount of pain meds
- The message: “Your life is no longer of value. You are better off dead.”



# Assisted Suicide and Trust

## The Case of Mrs. Stevens

“We had felt much discouragement during the prior three years, but never the deep despair that we felt at that time when her trusted physician suggested suicide.”

**Even proponents don't want their physicians to be in favor of doctor-assisted suicide**

# Telling the truth about PAS in Oregon

## Five Oregonians to Remember

- The vulnerable are at risk
  - Patients with dementia: **Kate Cheney**
  - Patients with Depression: **Michael Freeland**
- Changing roles of doctors and nurses
  - Doctors give lethal injection: **Clarietta Day**
  - Nurses now getting involved: **Wendy Melcher**
- It doesn't always work
  - Waking up after 5 days: **David Pruitt**

# Assisted Suicide in Oregon: Truth No Safeguards

- No requirement for mental health examination
- No requirement for family notification
- No mechanism for reporting pressure on patients or penalty for failure to report undue influence

# Assisted Suicide in Oregon: Truth No Safeguards

- No standard of care
- Legal protection for “good faith” lethal prescribing
- Negligence unlikely to be prosecuted (surviving parties may gain financially)

# Assisted Suicide in Oregon: Truth Its about Money

- Finances are driving the decision making
  - Med Director of **Kate Cheney's** HMO wrote her prescription after 2 of her MD's declined.
  - Oregon Medicaid pays for physician-assisted suicide, but denies payment for surgery, radiation therapy and chemotherapy for cancer patients with  $\leq 5\%$  5-year survival, even when such treatment may prolong survival and improve function.
  - Oregon's QualMed HMO pays for physician-assisted suicide (cost approx. \$50), but has a cap on hospice care.

# Assisted Suicide in Oregon: Truth No Oversight

- \$0 funding for governmental oversight
- Prescriptions counted by Department of Human Services (DHS)
- Data collected are kept secret
- Original reports destroyed after annual summary made public by the DHS
- *No provision for medical record review* to detect fraudulent reporting
- “Compassion and Choices” advocacy group is effectively the “Keeper of the Law” and controls all of the data

# Assisted Suicide in Oregon: Truth Spinning the Data

“Compassion and Choices” advocacy  
group

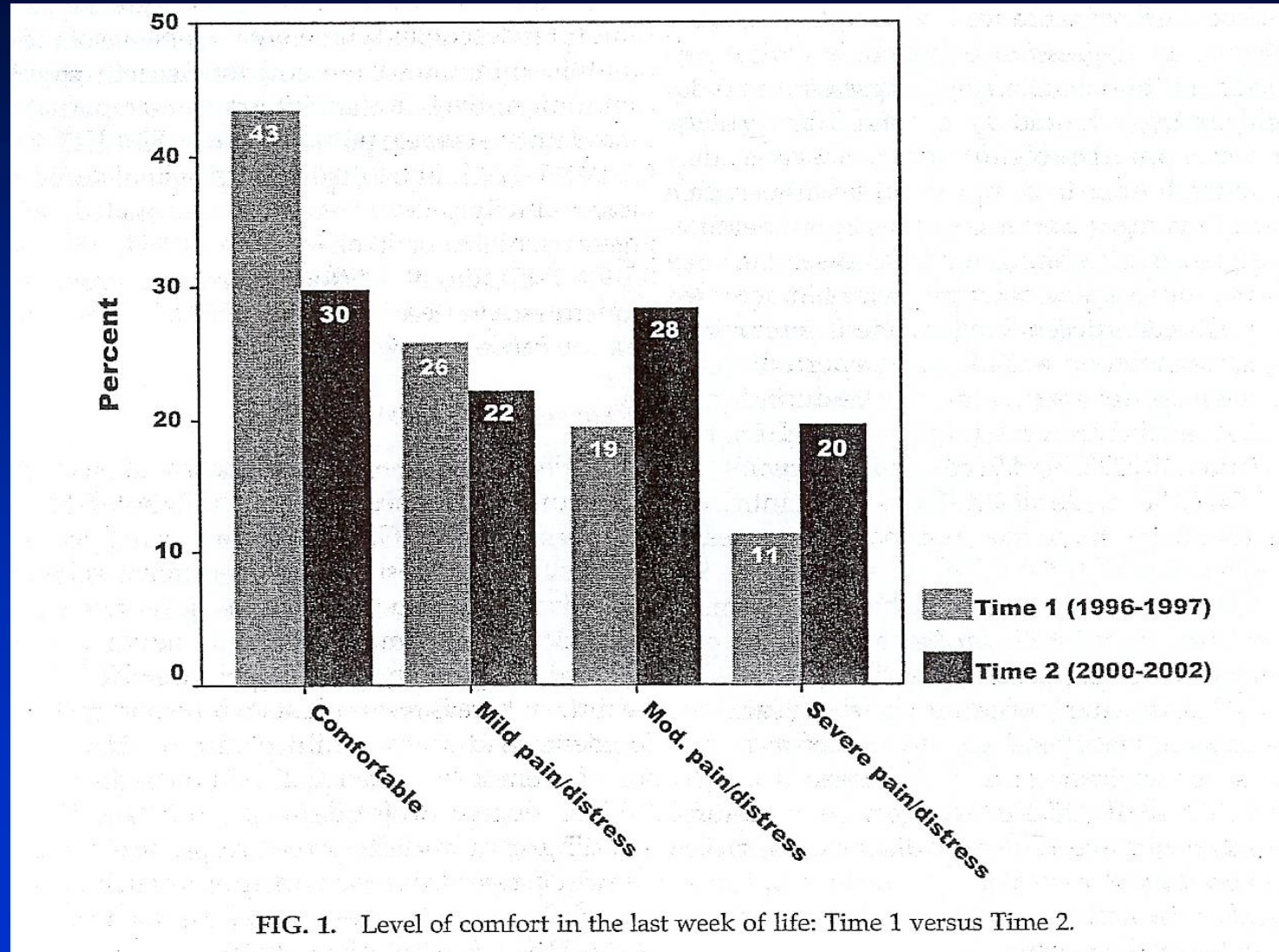
- attends most cases
- controls most of the information
- tells the stories it wants to tell
- used legal threats to get DHS to refer to “death with dignity” and not “assisted suicide”
- is effectively the Keeper of the Law

# Assisted Suicide in Oregon: Truth It's Not about Pain

- Surveyed families of 83 Oregon patients
- No physical symptoms rated higher than 2 on scale of 1–5
- Most important reasons:
  - wanting control of circumstances of death, dignity, and preferring to die at home
  - concerns about independence, ability for self care and quality of life
- Doctors need to do their job



# Assisted Suicide in Oregon: Truth Pain Management Worsening



# Assisted Suicide in Oregon: Truth Pain Management Worsening

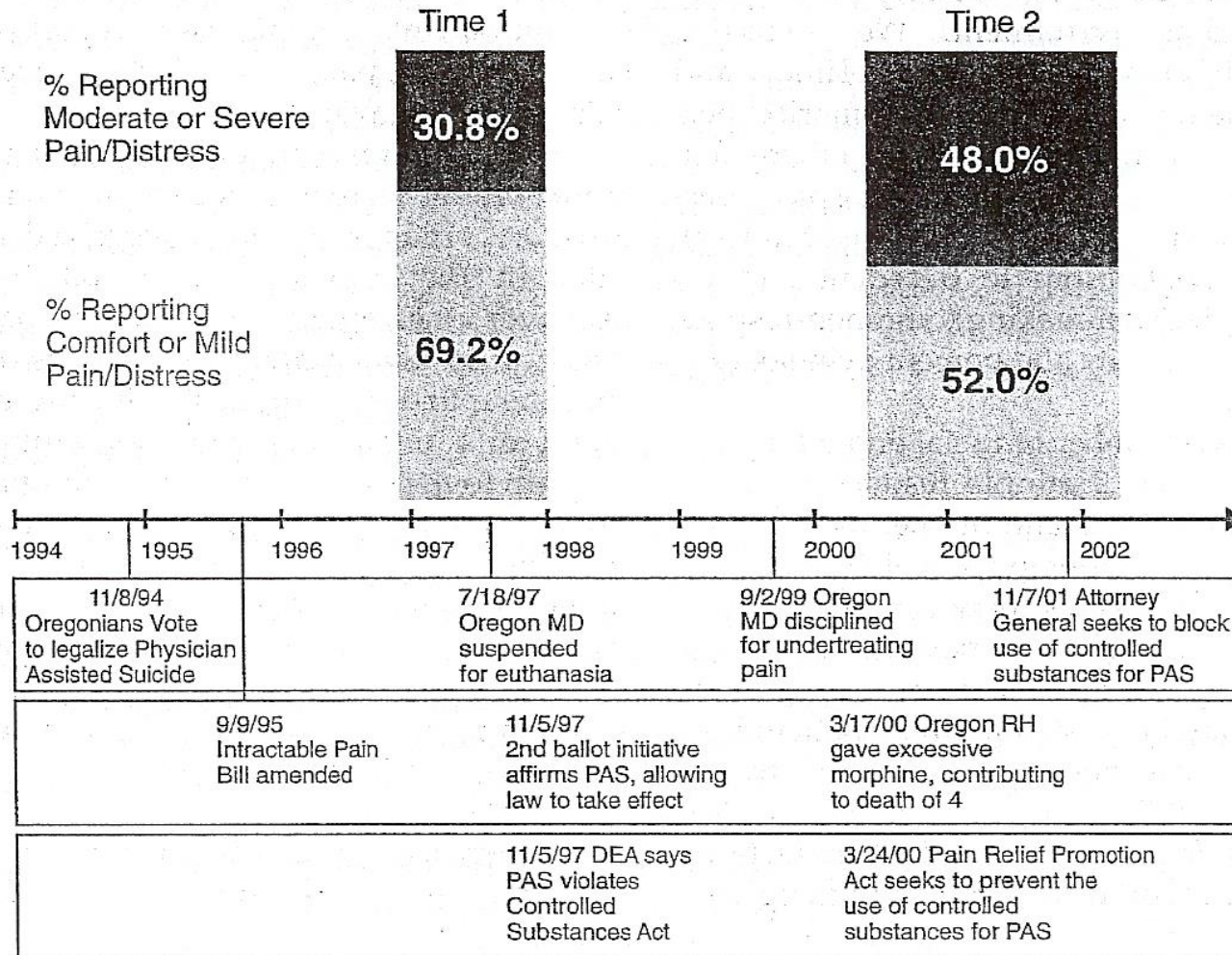


FIG. 2. Comparison of family reports of pain or distress during Time 1 and Time 2 in relation to a timeline of concurrent publicized events.

# Morphine/Opioid Use in Oregon & the U.S.

- Increased morphine use has been similar in both Oregon and the rest of the U.S.
- OHSU researchers comparing pain medication use prior to and following Oregon's PAS law found that inpatient morphine/opioid use did not increase for dying patients since the law was passed.
- States with new bans on PAS have had increased per capita use of morphine.

# Assisted Suicide in Oregon: How to Help the Patient

*"Our data suggests that when talking with a patient requesting PAD, clinicians should focus on eliciting and addressing worries and apprehensions about the future with the goal of reducing anxiety about the dying process. Some Oregon clinicians have expressed surprise at the paucity of suffering at the time of the request among these patients. Addressing patients' concerns with concrete interventions that help maintain control, independence and self care, all in the home environment, may be an effective way to address requests for PAD and improve quality of remaining life."*