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### **Assisted Suicide, "Death with Dignity"**

#### **Thesis statement:**

I firmly believe that Assisted Suicide is a personal decision. Although to most Americans it may conflict with their concept of life's ethics and moral reasoning that prevents it from being legal in all states. By making it legal in all states, a terminally ill person will benefit because of the alternative it has to offer.

#### **Scope of the Paper:**

This essay will be elaborating on the rights that fall under the death with dignity laws which is also known as Assisted Suicide. I will be covering why an individual has the right to decide whether or not, they should have the right to end their life. Lastly, I will then discuss how much involvement does the State and Federals have with the current laws carry and the role the Government has when it comes to a terminally ill patient, in regards to end their life in discretion.

#### **Position:**

My position on this topic is that I am for the death with dignity laws. I firmly believe that Assisted Suicide is a personal decision. I think that the patient should be able to make this choice. I feel that it should be left to the individual, but these options should be available to everyone that has been coping with a terminally ill condition.

The issue on Assisted Suicide is that it should be viewed as an individual freedom such as a personal choice. This will make it available to a patient that may want to choose assisted suicide and why it is beneficial for them (Kilpatrick, 1996). Assisted Suicide should be understood as an option to die a peaceful and pain free death with dignity.

### **Argument:**

My argument will be that it is the only option that's available when a person is terminally ill, and have a very limited lifestyle. What I mean by limited is that, when a person's ordinary lifestyle has been changed from living a regular life, but are now limited to a poor quality of life. Those limitations consist of attaching symptoms such as great pain, feeling sick, no energy and are pretty much lifeless. I do feel this will give a fair opportunity for one to have this choice. The implementation for my proposed solution would be to encourage **California's Proposition 161**. In 1992, the group Californians against Human Suffering proposed Proposition 161 to allow patients with less than six months to live the right to receive assistance from physicians in dying (Barbara, 1996). The "Death with Dignity Act" offer people who have terminal conditions some treatments that are deemed effective in offering a comforting, pain free death.

In the states that Assisted Suicide is legal, there is a criteria that must be followed first by the patient: In order to request a prescription for lethal medication: the ODDA requires the patient to be an adult (18 years or older), a resident of Oregon or the other before mentioned states, deemed capable of making an communicating health care decisions, and diagnose with a terminal illness that is expected to lead to death within 6 months (Westfeld, 161-169). Patients that meet the criteria may request a prescription for lethal medication from a licensed physician.

An opportunity at another solution would be with taking the same approach with the movement that was created from **Measure 16**. The measure "physician aid- in – dying," never made it to the ballot, "physician aid- in – dying." It was never passed because it never made it to a bill but it was used as foot work to pass it from a legislative approach that was taken by Oregon by passing the advance-directive law (Campbell, 1995). However, that advance-directive law offered many supporters to look at it as a strategy to legalize a physician role with the dying process.

If we don't allow a person to obtain this alternative with dying then we are only inflicting a painful life. Such endurance is torture because only in some cases is death a quick as others can be. Opponents of this compassionate act I think that this is just another choice such as choosing the right to have an abortion, marriage, career choices, and child-bearing decisions on all the other debates that may come up that lie before us.

Some states have moved forward and legalized the issue. Some examples are:

In the state of Montana, the *Baxter v. Montana* (2009) court decision created a defense for a physician was prosecuted and it was debated if he or she should be charged for assisting a suicide, and despite it being legal in Montana some prosecutions and convictions for assisted suicides are still possible. In New Mexico, doctors can help terminally ill patients die according to a 2014 court decision, that doctors would not be prosecuted under the state's assisted suicide law, but it is still classified as helping with suicide that is looked as a fourth-degree felony (1).

In looking at all this information, the question arises, to what extent is assisted suicide considered murder? When do you draw the line drawn between assisted suicide and a person considered that their hurting themselves by making this choice. We will see in the next following cases the differences between the two, assisted suicide and suicide

### **Court Cases to Date:**

1. In the case of *Wash v. Glucksberg*, 521 U.S. 702 it was upheld that assisted suicide is a right, the governments interest is seen as a right or liberty, this does not violate the Due Process Clause of the Fourteenth Amendment.

This also means that in many states they are against suicide since it is a public- health issue among the young, disabled, and the elderly. The petitions Wash won because they asserted that if assisted suicide isn't protected than to some extent some can and will abuse it.

2. In the case of [Blick v. Office of the Crim. Justice, 2010 Conn. Super. Lexis 1412](#), this case was on the motion to dismiss the Plaintiff's from being prosecuted for providing "aid in dying to terminally ill patients."

This means that since the physicians were aiding doesn't mean that the medications used to aid death was one that fell within that scope. Therefore the physicians were in violation. The reason why is that the prosecutors were within reason and covered by sovereign immunity. In Connecticut they prohibit suicide and prohibit physicians from assisting aid to their patients, but this case was dropped.

3. In the case of [Baxter v. State, 2009 MT 449](#), it was challenged on how Montana decided to apply homicide statutes on Physicians who provided aid to terminally ill patients. In Montana a physician is protected by a statutory defense when a physician aids a person with the patients consent.

This means that a physician doesn't get convicted of a homicide since it is legal in Montana for a physician to assist a terminally ill patient in a dying situation that consented to aid. This protects the physician as a legal defense. This is a good example for instance when it is legal in a state under The Terminally Ill Act which shields physicians from any criminal, civil or professional liability for the act of withdrawing or withholding life-sustaining treatment from a terminally ill patient that requests it (Gordon, Stewart, and Vollmann, 2011) .

4. In the next case of [Matter of Zornow, 31 Misc. 3d 450](#), it was challenged because of the fact that it was against the morals of a family that believe in public policy with feeding and offering water and if all that fails then it would constitute a proper death. The family looked at it as ordinary care where the patient denied or consented to another option so it remained that the patient would continue to be nourished.

This means that a patient can be deprived from food and water if a patient is unable to drink or eat and has less than 6months to live then, it is considered to be Euthanasia. Therefore a physician may not aid a patient in the dying process. It has also been established that under the Catholic directives that every patient should receive food and water, to supply and encourage the natural dying process with end of life treatment as well as their care.

5. In the last case which is [In re Tavel, 1995 Del. Ch. LEXIS 68](#), it was upheld that the patient's guardian was given the right to discontinue the feeding tube since the patient was already in a state where she would no longer be able to recover because of the state that the patient was in.

This means that a guardian may approve the act of removing the feeding tube under the "death with dignity act," when it permits the natural dying process. This is only for patients who are now in a vegetative state and will never recover and can't make those decisions for themselves.

### **Should Death with Dignity be legal in all states?**

I have to say that some may disagree with giving someone the decision to end their life in a legal way. Many would also say that it goes against their morals and ethics reasoning and nobody should have the right to take a life despite of it being their own. Some feel that medical ethical principles are violated such as religious ethics, and moral ethics. Many say that this goes against one of the ten commandments of God 'Thou shall not kill', and that these ethical principles should be followed by the medical profession (Tribune, 1950).

Since it is not legalized, Physicians are still being looked at as criminals and are still being prosecuted for helping out their patient's. A physician is still held accountable to save someone's life but it is also part of a physician's job to look out for their patient's best interest with offering, some preventative care like pain medications and steroids. For example, Dr. Jack Kevorkian, the famous physician who supported and practiced Assisted Suicide by helping many terminally ill patients ends their lives which led to his conviction of second-degree murder. These remedies are there so patients can be comfortable by living a pain free life while they are coping with a terminally ill condition. How much can the role of government play with such intimate and personal choice?

Another debated issue would be if these rights are not protected by the constitution then should it be left to Federal and State legislatures. If it is left to the individual then the federal court system should not be ruling on these issues (Dority, July. August 1996). This would leave some room for states to be able to pass laws that would establish this right.

For instance, in a case where the death with dignity is defined as assisted suicide sine a physician assisting with this legal treatment Euthanasia is the intentional way by ending a person's life that has an incurable or painful disease which is being looked at as an intended act of mercy (Lindsey, 1996/1997).

### **Conclusion:**

The conclusion is there is a personal choice that is available with the help of Assisted Suicide in one of the Five States such as Oregon, Washington, Montana, Vermont, and New Mexico. These states have the death with dignity laws, and that is an option for those that may feel that is the right choice for them. By means of elimination in suffering that they experience until they die, will allow them to have a peaceful death. There should be alternatives and with that in mind, everyone should have a choice with a right of freedom to make this decision for themselves. I believe they already have limitations with their quality of life but should also with their life term. An individual should be allowed to have a peaceful and pain free death. I think that since I think with this decision they would be able plan for their family to surround them, with being able to making arrangements such as death wishes should be carried out.

An alternative would be would for a patient to have the access to assisted suicide by having it authorized by a physician if qualifications are met, then the patient is required to get two qualified physicians to confirm the patient's diagnosis, prognosis, and competence such as undergo tests that cover mental and emotional state of the patient. If this alternative was available then this would mandate that the patient to get a second opinion so it is witnessed by two others physicians. This would also impose some reporting requirements and minimize criminal prosecutions for these various acts that were presented in the (Wash v. Glucksberg, 521 U.S. 702) case.

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- (15) *In re Tavel*, 1995 Del. Ch. LEXIS 68