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Do our rights stop at death? Individuals diagnosed with terminal illnesses are forced to think about not just when but how they are going to die. It is no surprise that some terminally ill patients cease to continue taking medication that would otherwise prolong their lives.[1] Yet opinions become very divided when individuals seek assistance in forgoing life altogether. Physician-assisted suicide (PAS) is known by various titles across the world.[2] In general, PAS is when a patient requests assistance in dying, without the doctor being civilly or criminally liable.[3] Countries seeking to legalize PAS must strike a balance between the government's desire to protect its citizens and individuals' rights over their bodies and lives.[4]

Many arguments in favor of PAS point to the need to alleviate suffering.[5] However, less than 33% of patients cite pain management in their reasoning for requesting PAS.[6] Instead, patients most commonly cite diminished quality of life, loss of autonomy, and loss of dignity.[7] Of the patients requesting PAS, most are dying of cancer (60–100% cases).[8] Other conditions commonly associated with PAS include amyotrophic lateral sclerosis (ALS), multiple sclerosis, cardiovascular disease, and immunodeficiency syndrome.[9] These vastly different conditions require different treatments and may account for the various governmental approaches to PAS.

The United States is among the many jurisdictions trying to strike a balance between the government's desire and its citizens' individual rights. In 1997, the Supreme Court twice ruled that there is no constitutional right to PAS.[10] In *Washington v. Glucksberg*, a

law prohibiting physician-assisted suicide was challenged on the grounds of the Fourteenth Amendment's Due Process Clause.[11] In *Vacco v. Quill*, physicians and terminally ill patients challenged a law that allowed a patient to reject life-sustaining treatment but did not allow physicians to assist in aiding a patient's death.[12]This law was challenged on Equal Protection grounds.[13] In both cases, the Supreme Court upheld the constitutionality of state laws prohibiting PAS. However, the Court's decisions did not mean that PAS was illegal, only that the choice is left open to the states.[14]

Later in 1997, Oregon became the first state to pass a pro-PAS law with the Death with Dignity Act.[15] The act was first passed in 1994, with 51% of voters in favor, but it was delayed by U.S. District Judge Michael Hogan, who issued an injunction and ruled the law unconstitutional.[16] The Ninth Circuit Court of Appeals reversed the ruling, and the injunction was lifted when the Supreme Court referred the matter back to the state.[17]

Soon after Oregon's law went into effect, controversy ensued when physician and PAS advocate Jack Kevorkian submitted a recording of himself injecting a lethal drug into Thomas Youk to CBS's *60 Minutes*, which was subsequently shown on television.[18] Youk was suffering from amyotrophic lateral sclerosis (ALS) and could not administer the drug himself.[19] Kevorkian was convicted of second-degree murder charges rather than assisted suicide charges because he was the one to administer the shot and not the patient.[20] Despite this public setback, several states have since implemented PAS laws similar to Oregon's.[21] Successful state legislation has "passed through direct democracy in the form of citizen initiatives advanced through ballot measures or propositions (California, Colorado, Oregon, and Washington) or by legislative bodies (District of Columbia, Hawaii, Maine, New Jersey, and Vermont) or as a result of court decisions (Montana)."[22]

Around the world, some form of assisted suicide is offered in Switzerland, the Netherlands, Belgium, Luxembourg, Colombia, Canada, Germany, Spain, the state of Victoria (Australia), the state of Western Australia, Tasmania (Australia), New Zealand, nine U.S. states, and the District of Columbia.[23] Internationally, three primary types of PAS laws are legalized.[24] (1) Jurisdictions such as Colombia only permit healthcare provider-administered assistance in dying; (2) in the United States and Switzerland, only self-administered assistance in dying is permitted; and (3) there are jurisdictions that allow both provider and self-administered assistance, such as Australia (Victoria), Belgium, Canada, Quebec, Luxembourg, and the Netherlands fall into the third category.[25] Currently, no jurisdictions permit a non-healthcare provider to administer life-ending medication without being held liable.[26]

Of the jurisdictions that have legalized PAS, each one has implemented substantive and procedural requirements to protect the legitimacy of the process.[27] Most jurisdictions have minimum age restrictions.[28] In order to request PAS in Canada, Luxembourg, and the United States, a patient must be 18 years or older.[29] In the Netherlands, the minimum age is 12 years old.[30] In Belgium, a patient of any age can request PAS so long as they are of mature judgment.[31] Similarly, in Switzerland, there is no specific age cut-off. However, the majority of right-to-die organizations require the patient to be an adult with sound judgment.[32]

Other substantive requirements used to safeguard the process include the requirement for a voluntary request that is thoroughly considered and sustained over time; the patient must have a fatal condition; the physician must inform the patient of alternate options and reach an understanding that no reasonable likelihood of improvement exists.[33] On the procedural side, a second opinion from a third-party physician is needed; in the US and Canada, mandatory waiting periods between the time of the request and the provision of fatal drugs are required; and finally, PAS must be reported by the physician following the procedure so that the case can be reviewed by a multidisciplinary control and evaluation committee.[34]

Of the countries/states that permit assistance in dying, only a few state the goals and rationale of these laws. In Quebec, there is the goal of alleviating suffering. Colorado expresses the desire for a peaceful death.[35] The District of Columbia similarly expresses the desire for a humane and peaceful death.[36] In New Jersey, Oregon, and Washington, the desire is for a humane and dignified death.[37] The differences among jurisdictions speak to the multitude of needs patients have as well as the diversity of routes eligible for governments to meet the needs of their citizens.

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[1] Barry F. Rosen, *Supreme Court Finds no Constitutional Right to Physician-Assisted Dying*, Gordon Feinblatt llc, (Jan. 31, 1997) https://www.gfrlaw.com/what-we-do/insights/supreme-court-finds-no-constitutional-right-physician-assisted-dying.
[2] Jocelyn Downie et al., *Assistance in Dying: A Comparative Look at Legal Definitions*, Death Stud. 1-9 (1992).
[3] Angela Morrow, *Overview of Physician Assisted Suicide Arguments*, Verywell Health (Jan. 02, 2021), https://www.verywellhealth.com/opposition-to-physician-assisted-suicide-1132377.
[4] Ezekiel J. Emanuel et al., *Attitudes and Practices of Euthanasia and Physician-Assisted Suicide in the United States, Canada, and Europe*, 316(1) [J]AMA 79-85 (2016).
[5] Morrow, *supra* note 3.
[6] Mroz et al., *Assisted Dying Around the World: A Status* Quaestionis, 10 Annals Palliative Med. 3542-3548 (2021).

[7] *Id.* at 3548.

[8] *Id.* at 3548.

[9] *Id.* at 3548.

[10] *Physician-Assisted Suicide Fast Facts*, CNN, https://www.cnn.com/2014/11/26/us/physician-assisted-suicide-fast-facts/index.html (last updated June 1, 2021).

[11] Washington v. Glucksberg, 521 U.S. 702 (1997).

[12] Vacco v. Quill, 521 U.S. 793 (1997).

[13] *Id.*

[14] *Supra* note 10.

[15] *Oregon Death with Dignity Act: A History*, death with dignity, https://deathwithdignity.org/learn/oregon-death-with-dignity-act-history/ (last visited Sept. 9 2021).

[16] *Id.*

[17] *Supra* note 10.

[18] Ellen Bernstein, *Jack Kevorkian*, Britannica, https://www.britannica.com/biography/Jack-Kevorkian (last visited Sept. 9 2021).

[19] *Id.*

[20] *Id.*

[21] Downie et al., *supra* note 2, at 5.

[22] *Id.* at 5.

[23] *Id.* at 5.

[24] *Id.* at 8.

[25] *Id.* at 8.

[26] *Id.* at 8.

[27] Mroz et al., *supra* note 6, at *3542.*

[28] *Id.* at 3542.

[29] *Id.* at 3542.

[30] *Id.* at 3542.

[31] *Id.* at 3542.

[32] *Id.* at 3542.

[33] Mroz et al., *supra* note 6, at *3542*.

[34] *Id.* at 3542.

[35] Downie et al., *supra* note 2, at 8.

[36] *Id.*

[37] *Id.*