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Four Problems with Physician-Assisted Suicide

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The Hippocratic Oath proclaims: "I will keep [the sick] from harm and injustice. I will neither give a deadly drug to anybody who asked for it, nor will I make a suggestion to this effect."[1] This is an essential precept for a flourishing civil society. No one, especially a doctor, should be permitted to kill intentionally, or assist in killing intentionally, an innocent neighbor.

Human life need not be extended by every medical means possible, but a person should never be intentionally killed. Doctors may help their patients to die a dignified death from natural causes, but they should not kill their patients or help them to kill themselves. This is the reality that such euphemisms as "death with dignity" and "aid in dying" seek to conceal.

In 2015, at least 18 state legislatures and the District of Columbia are considering whether to allow physician-assisted suicide (PAS).[2] Legalizing physician-assisted suicide, however, would be a grave mistake because it would:

1. Endanger the weak and vulnerable,
2. Corrupt the practice of medicine and the doctor–patient relationship,
3. Compromise the family and intergenerational commitments, and
4. Betray human dignity and equality before the law.[3]

To understand how PAS endangers the weak and marginalized, one must understand what PAS entails and where it leads.

What Is Physician-Assisted Suicide?

With PAS, a doctor prescribes the deadly drug, but the patient self-administers it. While most activists in the United States publicly call only for PAS, they have historically advocated not only PAS, but also euthanasia: the intentional killing of the patient by a doctor.

This is not surprising: The arguments for PAS are equally arguments for euthanasia. Neil Gorsuch, currently a federal judge, points out that some contemporary activists fault the movement for not being honest about where its arguments lead. He notes that legal theorist and New York University School of Law Professor Richard Epstein "has charged his fellow assisted suicide advocates who fail to endorse the legalization of euthanasia openly and explicitly with a 'certain lack of courage.'"[4]

The logic of assisted suicide leads to euthanasia because if "compassion" demands that some patients be helped to kill themselves, it makes little sense to claim that only those who are capable of self-administering the deadly drugs be given this option. Should not those who are too disabled to kill themselves have their suffering ended by a lethal injection?

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And what of those who are too disabled to request that their suffering be ended, such as infants or the demented? Why should they be denied the "benefit" of a hastened death? Does not "compassion" provide an even more compelling reason for a doctor to provide this release from suffering and indignity?[5]

Although the Supreme Court of the United States has ruled in two unanimous decisions that there is no constitutional right to PAS, three states permit it by statute: Oregon, Washington, and Vermont.[6] Physician-assisted suicide and euthanasia are allowed in three European countries—the Netherlands, Belgium, and Luxembourg—and Switzerland allows assisted suicide.[7]

The evidence from these jurisdictions, particularly the Netherlands, which has over 30 years of experience, suggests that safeguards to ensure effective control have proved inadequate. In the Netherlands, several official, government-sponsored surveys have disclosed both that in thousands of cases, doctors have intentionally administered lethal injections to patients without a request and that in thousands of cases, they have failed to report these incidents to the authorities.[8]

Four Problems with Physician-Assisted Suicide

As argued in The Heritage Foundation *Backgrounder* "Always Care, Never Kill," physician-assisted suicide is bad policy for four reasons.[9]

First, PAS endangers the weak and marginalized in society. Where it has been allowed, safeguards purporting to minimize this risk have proved to be inadequate and have often been watered down or eliminated over time. People who deserve society's assistance are instead offered accelerated death.

Second, PAS changes the culture in which medicine is practiced. It corrupts the profession of medicine by permitting the tools of healing to be used as techniques for killing. By the same token, PAS threatens to fundamentally distort the doctor–patient relationship because it reduces patients' trust of doctors and doctors' undivided commitment to the life and health of their patients. Moreover, the option of PAS would provide perverse incentives for insurance providers and the public and private financing of health care. Physician-assisted suicide offers a cheap, quick fix in a world of increasingly scarce health care resources.

1. Ludwig Edelstein, *The Hippocratic Oath: Text, Translation and Interpretation* (Baltimore, MD: Johns Hopkins University Press, 1943), http://guides.library.jhu.edu/content.php?pid=23699&sid=190555 (accessed January 28, 2015).
2. State legislation as of March 20, 2015: Alaska, HB 99; California, SB 128; Colorado, HB 15-1135; Connecticut, SB 668; Iowa, HF 65; Kansas, HB 2150; Maryland, HB 1021; Massachusetts, HD 1674; Minnesota, SF 1880; Missouri, HB 307; Montana, SB 202; Nevada, SB 336; New Jersey, AB 2270; New York, AB 02129; Oklahoma, HB1673; Utah, HB 391; Wisconsin, AB 67/SB 28; Wyoming, HB 119; and the District of Columbia, B21-0031. In the courts, a New Mexico appeals court will review a lower court's decision claiming to find a right to assisted suicide in the state constitution.
3. See Ryan T. Anderson, "Always Care, Never Kill: How Physician-Assisted Suicide Endangers the Weak, Corrupts Medicine, Compromises the Family, and Violates Human Dignity and Equality," Heritage Foundation *Backgrounder* No. 3004, March 24, 2015, http://www.heritage.org/research/reports/2015/03/always-care-never-kill-how-physician-assisted-suicide-endangers-the-weak-corrupts-medicine-compromises-the-family-and-violates-human-dignity-and-equality.
4. Neil M. Gorsuch, *The Future of Assisted Suicide and Euthanasia* (Princeton, NJ: Princeton University Press, 2006), p. 7.
5. See Anderson, "Always Care, Never Kill."
6. See *Glucksberg* and *Quill*: *Glucksberg v. Washington*, 521 U.S. 702 (1997) (holding that "the asserted 'right' to assistance in committing suicide is not a fundamental liberty interest protected by the Due Process Clause"), and *Vacco v. Quill*, 521 U.S. 793 (1997) (holding that because refusing treatment is logically distinct from assisting suicide, New York State's prohibition on PAS treated all patients the same and so did not violate the Equal Protection Clause). For a helpful discussion of these cases and precedents, see Gorsuch, *The Future of Assisted Suicide and Euthanasia*, pp. 8–18. Oregonians legalized PAS through Ballot Measure 16, the Death with Dignity Act in 1994; see O.R.S. § 127.800-995 (1994), which took legal effect late in 1997. Washingtonians approved Initiative 1000, the Death with Dignity Act, in 2008; see R.C.W § 70.245 (2008). In 2013, the Vermont Legislature passed the Patient Choice and Control at End of Life Act; see 18 V.S.A. § 5289 (2013). In 2009, a Montana Supreme Court decision gave physicians the ability to raise the defense of consent to a charge of violating the state's assisted suicide law; see *Baxter v. Montana*, WL 5155363 (2009). New Mexico, meanwhile, is in the middle of court proceedings over physician-assisted suicide, with a lower court having ruled in its favor, but that ruling is being appealed. Eric Eckholm, "New Mexico Judge Affirms Right to 'Aid in Dying,'" *The New York Times*, January 13, 2014, http://www.nytimes.com/2014/01/14/us/new-mexico-judge-affirms-right-to-aid-in-dying.html (accessed January 28, 2015).
7. Jose Pereira, "Legalizing Euthanasia or Assisted Suicide: The Illusion of Safeguards and Controls," *Current Oncology*, Vol. 18, No. 2 (April 2011), http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3070710/ (accessed February 4, 2015).
8. See also John Keown's discussion of the Netherlands in Jackson and Keown, *Debating Euthanasia*, pp. 118–128.
9. See Anderson, "Always Care, Never Kill."

Third, PAS would harm our entire culture, especially our family and intergenerational obligations. The temptation to view elderly or disabled family members as burdens will increase, as will the temptation for those family members to internalize this attitude and view *themselves* as burdens. Physician-assisted suicide undermines social solidarity and true compassion.

Fourth, PAS's most profound injustice is that it violates human dignity and denies equality before the law. Every human being has intrinsic dignity and immeasurable worth. For our legal system to be coherent and just, the law must respect this dignity in everyone. It does so by taking all reasonable steps to prevent the innocent, of any age or condition, from being devalued and killed. Classifying a subgroup of people as legally eligible to be killed violates our nation's commitment to equality before the law—showing profound disrespect for and callousness to those who will be judged to have lives no longer "worth living," not least the frail elderly, the demented, and the disabled. No natural right to PAS exists, and arguments for such a right are incoherent: A legal system that allows assisted suicide abandons the natural right to life of all its citizens.

The Alternative: True Compassion and Care

Instead of embracing PAS, we should respond to suffering with true compassion and solidarity. People seeking PAS typically suffer from depression or other mental illnesses, as well as simply from loneliness. Instead of helping them to kill themselves, we should offer them appropriate medical care and human presence. For those in physical pain, pain management and other palliative medicine can manage their symptoms effectively. For those for whom death is imminent, hospice care and fellowship can accompany them in their last days. Anything less falls short of what human dignity requires. The real challenge facing society is to make quality end-of-life care available to all.

Doctors should help their patients to die a dignified death of natural causes, not assist in killing. Physicians are always to care, never to kill. They properly seek to alleviate suffering, and it is reasonable to withhold or withdraw medical interventions that are not worthwhile. However, to judge that a patient's life is not worthwhile and deliberately hasten his or her end is another thing altogether.

Citizens and policymakers need to resist the push by pressure groups, academic elites, and the media to sanction PAS.

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