

## Physician Aid in Dying/ Euthanasia

Euthanasia is illegal in all states of the United States.

Physician aid in dying ("PAD"), or assisted suicide, is legal in the states of Washington, Oregon, Montana, and Vermont.

The key difference between euthanasia and PAD is who administers the lethal dose of medication.

Euthanasia entails the physician or another third party administering the medication, whereas PAD requires the patient to self-administer the medication and to determine whether and when to do this.

### **Where the States Stand:**

Attempts to legalize PAD resulted in ballot initiatives in the last 20 years in the United States.

- California placed Proposition 161 on the ballot in 1992
- Oregon voters passed Measure 16 (Death with Dignity Act) in 1994
- Michigan included Proposal B on their ballot in 1998
- Washington's initiative 1000 passed in 2008
- Vermont's state legislature passed a bill making PAD legal in May 2013
- Maine rejected a similar bill as Vermont's on May 31, 2013.

### **History of Euthanasia**

Debates about the ethics of euthanasia and physician-assisted suicide date back to ancient Greece and Rome. After the developments of ether, physicians began advocating the use of anesthetics to relieve the pain of death. In 1870, Samuel Williams first proposed using anesthetics and morphine to intentionally end a patient's life. Over the next 35 years, debates about euthanasia continued and in 1906, Ohio legalized euthanasia (the bill was ultimately defeated).

## Cases Law

### *Barber v. Superior Court*

In the case of *Barber v. Superior Court*, 147 Cal. App.3d 1006 (1983), two physicians honored a family's request to withdraw both respirator and intravenous feeding and hydration tubes from a comatose patient. The physicians were charged with murder, despite the fact that they were doing what the family had requested. The court held that all charges should be dropped because

the treatments had all been ineffective and burdensome. Withdrawal of treatment, even if lifesaving, is morally and legally permitted. Competent patients or their surrogates can decide to withdraw treatments, usually after the treatments are found to be ineffective, painful, or burdensome.

### *Baxter v. Montana*

*Baxter v. Montana*, 2009 WL 5155363 (Mont. 2009), was a Montana Supreme Court case, that addressed the question of whether the state's constitution guaranteed terminally ill patients a right to lethal prescription medication from their physicians. Robert Baxter, a seventy-six year old truck driver was dying of lymphocytic leukemia. The plaintiffs asked the court to establish a constitutional right "to receive and provide aid in dying". The state argued that "the Constitution confers no right to aid in ending one's life." Court ruled in favor of the plaintiffs on December 5, 2008, stating that the "constitutional rights of individual privacy and human dignity, taken together, encompass the right of a competent terminally-ill patient to die with dignity." Baxter died that same day.

### *Vacco v. Quill*

*Vacco v. Quill*, 521 U.S. 793 (1997), is a landmark decision of the Supreme Court of the United States regarding the right to die. It ruled that a New York ban on physician-assisted suicide was constitutional, and preventing doctors from assisting their patients, even those terminally ill and/or in great pain, was a legitimate state interest that was well within the authority of the state to regulate. In brief, this decision established that, as a matter of law, there was no constitutional guarantee of a "right to die."

### *Doctor Kevorkian*

*People v. Kevorkian*, 248 Mich. App. 373 (2001), is the highly publicized case involving Dr. Jack Kevorkian in which he administered a lethal drug to Thomas Youk in a "mercy killing" because Youk had been diagnosed with a fatal disease.

Dr. Kevorkian assisted over 40 people in committing suicide in Michigan. His first public assisted suicide was in 1990, of Janet Adkins, a 54-year-old woman diagnosed with early-onset Alzheimer's disease in 1989. He was charged with murder, but charges were dropped on December 13, 1990 because there were no Michigan laws outlawing suicide or the medical assistance of it so he was not in violation of a law.

Years later, Kevorkian crossed the line from assisting the patient to actively killing the patient himself. Kevorkian videotaped himself giving a man a lethal injection and aired the tape on 60 Minutes. He was found guilty of second-degree murder and served eight years of a 10–25 year sentence. He was released in 2007.

## States and their Statutes

### **Oregon Death with Dignity Act**

Measure 16 in 1994 established the Oregon Death with Dignity Act, which legalizes physician-assisted dying with certain restrictions, making Oregon the first U.S. state and one of the first jurisdictions in the world to officially do so. The measure was approved in the 8 November 1994 general election. The Supreme Court of the United States ruled 6-3 to uphold the law after hearing arguments in the case of *Gonzales v. Oregon*.

#### **Texas's Advanced Directives Act**

In 1999, the state of Texas passed the Advance Directives Act. Under the law, in some situations, Texas hospitals and physicians have the right to withdraw life support measures, such as mechanical respiration, from terminally ill patients when such treatment is considered to be both futile and inappropriate. This is sometimes referred to as "passive euthanasia".

#### **Washington's Initiative 1000**

In 2008, the electorate of the state of Washington voted in favor of Initiative 1000 which made assisted suicide legal in the state through the Washington Death with Dignity Act.

#### **Vermont's PAD Bill**

On May 20 2013, Vermont Governor Peter Shumlin signed a legislative bill making PAD legal in Vermont.