The Northwest Center for Bioethics

Commentary
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A Grand Illusion: Oregon's Attempt to Control Death through Physician-Assisted Suicide ©
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A contemplative of old, François Fenelon, once remarked, "Death only troubles the carnal." By permitting an individual to commit suicide with the help of a physician, a majority of the voting public in Oregon believed that through choice they empowered personal control over this 'troublesome enemy.' Opponents to physician-assisted suicide (PAS) contend that its legalization only increases such 'trouble' by opening the way for eventual social acceptance of legalized involuntary euthanasia of weaker voices of society. Since the vote in November of 1994, antagonists have attempted to delay, minimize, and overturn its legalization. Pro-euthanasia advocates have responded by framing the debate as individual and state autonomy rights over against an imposition of Christian pro-life morality. The short reflection that follows comes to you by way of observations from a local in the debate, a local who is more convinced than ever that the so-called dignified and autonomous decision of PAS remains a grand illusion and those pressing PAS and participating in its practice are yet 'troubled' by the reality they pretend to control.

I. A short description of the law

Physician assisted suicide has been practiced legally in Oregon for four years. In short, the law permits state residents to receive prescriptions for self-administered lethal doses of medications from their physicians. The law in no way permits any form of euthanasia or lethal injection where someone else is directly involved with the termination of the patient's life. In order to receive a lethal prescription, the person must be capable of making health care decisions, capable of self-administration, and expected to die within 6 months. Other legislative and administrative specifics such as residency requirements, two requests, waiting periods, prognosis, psychological evaluation, and alternatives may be found at website http://www.ohd.hr.state.or.us/chs/pas/pas.htm.

I. The Practice

As a pharmacist, my first area of concern is efficacy of practice. An entire opposition campaign questioned the use of lethal dose oral barbiturates as a 100% "safe and effective means" of terminating a person's life. Barbara Combs-Lee, leader of the pro-PAS movement, cleverly paraded statistics of "safety and efficacy" in the first major debate to overturn the law in September of 1997. In what seemed to be a rather orchestrated debate, neither the press nor the moderators seemed to pick up on or

were willing to entertain questions, including mine, on the failure rates that she neglected during her presentation of the Kimsma text she presented. This illusion of efficacy is still perpetuated even after looking at four years of statistics.

Lethal Prescriptions Written cp. Prescriptions Used

Year	**1998**	**1999**	**2000**	**2001**
No. Lethal Use	16	27	27	21

Time of Ingestion until Death

Year	**1998**	**1999**	**2000**	**2001**
No. Unknown	1	2	8	1
0-4 hours	9	24	19	18
>= 6 hours	at least 1	2	at least 1	0
>=24 hours	0	1	0	2

The peak activity of short-acting barbiturates should kill the patient in 30 minutes to 3 hours. Patients "lingering" beyond six hours are dying from something other than the primary desired effect of lethal respiratory depression. Ignoring the evidence that 12 of the 91 cases were not followed in this respect, at least 7 failures of drug 'efficacy and safety' are present, if normal standards of PAS from the Netherlands are practiced. This concern of the trauma of lingering death is exacerbated by the discontinuation of the drug of choice for the procedure, secobarbital, and the unavailability of the second choice, oral pentobarbital.

What is the illusion? It is the framing of the question of 'safety and efficiency' in terms of vomiting and seizure, not efficacy in the cause of a peaceful death. The reports conclude that no adverse effects occurred when using the drugs of choice, secobarbital or pentobarbital 9 Grams. No thought is given to "the barbarity of lingering death" as a failure of the drug or as an adverse affect. An occasional appearance of anecdotal evidence of the trauma, like that visited on deceased ALS patient Pat Matheny and his brother-in-law who attempted to keep him awake to finish the lethal draught, raise doubt of efficacy. Details of his death are not clear, but the flurry of discussions in the newspaper, *The Oregonian*, produced less than convincing evidence of a peaceful exit. The perpetuation of this 'red herring' only creates an illusion of assurance that an individual has autonomy over the time and manner of death.

II. The Peoples' Reasoned Choice

The rationale behind the choice of PAS is a clear expression of the radical individualism that is part of the Oregon culture. The 'sacred cow' at issue is concern for loss of autonomy. Other top reasons such as "loss of bodily control" and "family burden" are easily subsumed under the autonomy category. The loss of a utilitarian valued "pleasurable state of consciousness" proved a popular concern as well. Interestingly,

“pain control,” which was originally a major argument for permitting PAS, was only a minor category of concern over the last four years. Some interesting data points follows.

Predominant Concerns Based upon Physician Interviews with Psychological Assessment Referral Data (Adapted from Table 3, OHD 2002)

End of Life Concerns	2001 (N=21)	1998-2000 (N=70)	Total (N=91)
Loss of autonomy	94% (16)	83% (58)	85% (85)
Loss of life enjoyment	76 (13)	77 (54)	77 (67)
Loss of bodily controls	53 (9)	66 (46)	63 (55)
Burden on family, friends etc.	24 (4)	37 (26)	34 (30)
Inadequate pain control	6 (1)	24 (17)	20 (18)
Financial treatment burdens	6 (1)	1 (1)	2 (2)
Psychiatric evaluation	14 (3)	29 (20)	25 (23)

What struck me as most peculiar was the infrequency of psychiatric evaluation in the face of loss of life enjoyment, bodily control, and burden. The lack of evaluation is odd, given the plethora of studies suggesting the difficulty in diagnosis of depression by physicians.

Anecdotal evidence, like the report of the mixed opinions regarding lucidity and a sense of possible coercion in the Kate Cheney case, creates doubt that criteria of informed consent can be readily met. From the newspaper account, one psychiatrist felt that dementia was setting in and that the daughter’s agenda may have been overshadowing the will of her mother. The apparent pro-PAS bias of the journalist was evidenced as she went to great lengths through childhood stories to show mother-daughter love, as well as spinning the psychiatrist’s opinion as a barrier to realization of the patient’s autonomous right to PAS. Admittedly, informed consent from such distance is hard to determine, yet a sense of concern remains, particularly with such under-utilization of the evaluations as Ms. Cheney received. I cannot help but wonder if selective data points from the patients narrative are merely massaged into the ambiguous criteria used to constitute autonomy and informed consent by well-meaning individuals. Concern arises that a potential one-dimensional view of death is being served by a quick exit in order that the “trouble” that death stirs in the soul may be assuaged through an expedient and permanent solution.

III. The Challenges

There is no want of challenges opposing the practice of PAS in Oregon. These range from the initial district court test in 1994 to its eventual loss as a state’s rights issue at the Supreme Court level in 1997, a second state initiative in 1997 (Measure 51), an initial challenge and loss by Constintine of the DEA, and the recent overturning of a challenge by Attorney General Aschroft by district court judge Jones. My opinion is that these have only amalgamated support by those Oregonians originally unsure of their

position on PAS as they shifted their concern from possible abuse and lack of safety to an issue of the state's rights and autonomy. Those pressing the immoral aspects of PAS as murder misread the cultural contours of an ethically relativistic unchurched populous. Calling for the radically individualistic citizens of Oregon, religious or pagan, to waive their autonomy or voting choice in favor of a federal court decision severely damaged public opposition to PAS. Clearly the landslide loss of Measure 51 (60%-40%) versus the 51%-49% vote of the original Measure 16 should be a lesson of how not to overturn a law in Oregon. It should serve as a call to the opposition to reassess their approach. Will to power and imposition of rules upon the radically individualistic residents of the 'eco-corridor' shifts the argument from the theater of reason to the stage of emotion. There, myth or illusion will dominate any appeal to fact or rationation. Take, for example, the forgotten involuntary active euthanasia of an unconscious Corvallis woman brought into ER in a local hospital in February of 1997. After prodding from the daughter, numerous procedures were used to end the woman's life, culminating in the lethal injection of succinylcholine. There was no denial of the act. Rather, a public emotional outcry in support of the physician charged in her death led the prosecuting attorney to decide that he would not be able to find a jury who would convict the physician. He was probably correct, and that is my point. The discussion of PAS and practices remotely attached to it are so emotionally laden with pro-choice autonomy language that there is little if any resolve in the legal community to prosecute even the most blatant of violations.

IV. Conclusion

After four years of the "Oregon Experience," I am more convinced than ever that Oregon's 'sacred cow' of radical autonomy expressed in a suicidal death with dignity is mere illusion or maybe a grand illusion. It is after all a grand illusion to believe that one really controls one's time and means of death. The death one dies is a result of death lived throughout one's life, whether a death to self or a death for self. The control of death is in reality lacking, a choice of life and death lived and died -- doomed to be played out in the illusion of a mono-dimensional physical world only. Unseen are the questions of the beyond. Silenced are the questions of the heart 'troubling' those left behind in the flesh. Perhaps more terrifying is the questions of the heart of those who have gone on and now know better. Faint cries of such trouble are found in Oregon's reports, such as those reported being too distraught to complete the interview. Theirs is the reality that transcends the illusion. Theirs is the troubled voice that dispels the illusion of autonomy, autonomy that in whatever guise still remains powerless to the inevitable sickle of the reaper.