

# The Right to Decide

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**Abstract**— Responding to the long debated controversy over Physician Assisted Suicide (PAS), benefits that can result from such legalization, and rights that have the ability to cause such legalization if brought to governments' attention, are discussed.

**Index Terms**— Health Insurance, Legalization, Palliative Care, Physician Assisted Suicide, Suffering, Suicide, Terminal Illness

## 1 INTRODUCTION

Since 399 B.C., when Socrates decided to end his life by drinking poison hemlock, suicide has become a controversial topic in the world. His voluntary death, reinforced by the Athenian court, left society with a new philosophy to explore and a new universal law to discuss. Socrates' internal conflicts provided him with a persuasive method of argument, enabling him to understand the causes and consequences of suicide. Ironically, the singular and exemplary life of Socrates ultimately influenced his decision to die as an act promoting self-morals and human rights. Because the Athenian court allowed Socrates to die by giving him the poison hemlock to drink, Socrates' suicide directly relates to assisted suicide. In the United States today, society frowns upon physician-assisted suicide (PAS) as evident by the number of states that disallow PAS. However, many states now support PAS as an acceptable practice. Because of proved benefits that the legalization of physician-assisted suicide may offer, and due to the fundamental right a person has to be treated as a human being, states should legalize physician-assisted suicide.

## 2 ECONOMICS

### 2.1 Society's Dependence on Health Care

Economics play a major part in the controversy over PAS and coincide with the benefits of its legalization. With President Barak Obama's recent Patient Protection and Affordable Healthcare Act, attention given to medical costs and companies that provide medical insurance has increased. David A. Gruenewald's research shows that, "Over the last 10 years health care insurance premiums have increased by 131%, while wages have grown 38% and inflation has increased by 28%" [1]. According to Gruenewald, an associate professor at Washington State University, the unsustainable current health care spending trajectory results from society's unnecessary dependence on health care.

Comparing health care costs to the amount of time one spends in a hospital shows that PAS can help reduce these health care costs in the United States. When a doctor shortens a patient's life, hospitals spend fewer resources caring for said patient. Dr. Donald M. Berwick, administrator of the Centers for Medicare and Medicaid Services, states, "...using unwanted procedures in terminal illness is a form of assault. In economic terms, it is waste... several techniques have been shown to reduce inappropriate care at the end of life, leading to both lower cost and more humane care" [1]. As the length of a patient's hospital stay increases, bills for medicine and treatment

increase as well. Therefore, health insurance companies pay more for patient care when terminally ill patients have extended hospital stays.

### 2.2 Health Care Costs in the United States

If a medical insurance company pays higher claims for patient care, then the public pays higher premiums for insurance benefits. Medicare data shows that dollars spent on a terminally ill patient's health care substantially increase in the last weeks of his life. Out of the entire Medicare budget, 30% goes to the 5% of Medicare patients who die each year, and Medicare spends 40% of said budget for palliative care during the last month of a patient's life [2]. Since most states have not legalized PAS, patients do not have the ability to stop the treatment that ultimately keeps them alive. This termination of these treatments would reduce the amount of money spent on a patient. Dr. Ezekiel J Emanuel's calculations show that, "...for a beneficiary who dies of cancer after receiving conventional care, \$30,397 (in 1995 dollars) is spent on medical care in the last year of life. Fully 33% of the last year's costs (\$10,118 in 1995 dollars) are spent in the last month of life, and 48% (\$14,507 in 1995 dollars) in the last two months of life" [2].

In 1995, when Dr. Emanuel conducted his research, he calculated that if the average medical costs for a terminally ill patient averaged \$10,118, legalizing PAS would save approximately \$627 million. His estimation serves as the minimal amount health care systems could potentially save. [2]. Based on Dr. Emanuel's extensive research, PAS can substantially lower health care costs in the United States.

### 2.3 Palliative Care

In addition, if health care expenses in time and money remain largely unpredictable to the public, health care costs will skyrocket even further due to the public's ignorance of palliative care. This care, or medication and treatment given to a terminally ill patient, also evokes conflict and controversy in society. Some believe in order for hospitals to exhibit moral actions, these hospitals need to provide palliative care to every patient even if the patient does not wish to receive treatment. However, this "politically-correct" view of palliative care does not support the economic reality of PAS.

The discontinuance of palliative care will benefit society as a whole because if health insurance companies reduce the amount of spending used on terminally ill patients, society will pay less for health care and insurance. Dr. Emanuel states

that a patient insured by Medicare can save up to \$20,000 in his lifetime if states legalize PAS [2]. Also, Dr. Emanuel concludes that not only might the legalization of PAS reduce Medicare costs, but this legalization will also have the same effect on people insured individually, by an employer, Medicaid, or COBRA [2]. Even though some believe all terminally ill patients should receive palliative care, conclusions reached by multiple researchers show how and what citizens of the United States can save with the legal practice of PAS.

### 3 POLITICAL HISTORY

Not only can the legalization of PAS benefit society from an economic perspective, but the political history of suicide, and its related topics, also proves that states should legalize PAS. The legalization of suicide in 1961 shows that suicide is legal; therefore, states should also legalize PAS. Factors that determine major court rulings, like in cases of suicide, derive from both psychological and physical aspects of a person's life. The factors that helped determine the legalization of suicide directly relate to the factors that support the legalization of PAS.

According to Ken Gardoski, a prominent physician from Pennsylvania, the PAS debate also parallels the abortion controversy in the United States. Since the 1973 Supreme Court rulings *Roe vs. Wade*, and later *Doe vs. Bolton*, the practice of abortion became legal due to possible deterioration in a mother's health. Defined broadly, her health relates to psychological, emotional, physical, and familial factors, similar to those of health factors considered when legalizing suicide [3].

Similarly, Oregon, Montana, and Washington have legalized PAS on a basis that highly considers physiological and psychological factors as well as the safety of individuals. For example, with PAS, doctors can safely monitor a patient so that he will die with no pain. States should continue to consider individual rights, so that citizens can have individual freedoms, protected by the Constitution, as previous political actions promote the legalization of PAS.

## 7 FUNDAMENTAL RIGHTS

### 7.1 Human Suffering

Court rulings, and the political history of the United States, along with the fundamental right a patient has to be treated as a human being, enforces the legalization of PAS. In many cases, patients approaching the end of their lives suffer tremendous pain. Therefore, more time that terminally ill patients

spend in hospitals creates longer periods of suffering for some patients. According to Dr. Alan D. Lieberson, a highly recognized doctor from Connecticut, any patient has a legal right to determine his own medical care. He states that, "Because the common law also accepts the right of the patient to pass on directions through a living will, the common law also provides a way for the patient to refuse any life-support system in any situation even after the patient has lost decision-making capacity" [4]. Most states use a legal document, the Durable Power of Attorney for Health Care (DPAHC), to create "Health Care Agents" for patients who may or may not eventually lose the ability to make decisions [4]. Such precautions, including living wills and health care agents, provide a patient with the mental capacity to make life-changing decisions. Hence, if a patient suffers from any type of unbearable pain, physical or psychological, the patient will have the ability to safely choose his fate.

### 7.2 Prevention of Pain

Inhumane actions, taken by hospitals to keep alive patients who suffer from untreated pain, disallow patients to choose PAS as a medical option. Many think that all patients do not suffer from pain while in hospitals; however, the U.S. National Library of Medicine (U.S. NLM) and the National Institutes of Health (NIH) prove that not all medication exists that prevents all of the pain a terminally ill patient suffers. Some painful terminal diseases include pancreatic cancer, ebola hemorrhagic fever, and Lesch-Nyhan syndrome [5]. As stated by Martin Hughes, a well-known chiropractic physician in Durham, NC, "Pursuing aggressive treatments for terminal illness may prolong a person's life, but stopping treatment could mean that the individual experiences a more comfortable death" [5]. Both the U.S. NLM and the NIH state that a terminally ill patient has the ability to either continue or stop his treatment. Therefore, if a patient wishes to die, PAS remains a safer, less painful, and healthier way for said patient to pass away.

### 7.3 Previous Cases

Unfortunately, PAS ideology shared by the U.S. National Library of Medicine and the National Institutes of Health relates to a patient's fundamental right to decide his ability to die with dignity and without pain. Death with dignity precedes death with degradation.

In the case of Robert Baxter, a terminally ill patient diagnosed with lymphocytic leukemia from Montana, the court allowed Baxter the choice of PAS if he so desired [6]. Baxter stated to the court, "If my suffering becomes unbearable, I want the legal option of being able to die in a peaceful and dignified manner by consuming medication prescribed by my doctor for that purpose. Because it will be my suffering, my life, and my death that will be involved, I seek the right and responsibility to make that critical choice for myself if circumstances lead me to do so" [6].

Others, like Baxter, based their arguments on inviolable dignity. Later, the Supreme Court followed these standards in the case *Cruzan v. Director, Missouri Department of Health* where Chief Justice Rehnquist referenced the court case *Superintendent of Belchertown State School v. Saikewicz* to argue that, "Since

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spend in hospitals creates longer periods of suffering for some patients. According to Dr. Alan D. Lieberson, a highly recog-

a competent individual has the right to refuse life sustaining treatments, an incompetent person retains the same rights because the value of human dignity extends to both" [6].

#### 4 CONCLUSION

Ultimately, the right to decide one's death by assistance from a physician, supported by previous political actions, benefits society economically and upholds the fundamental rights of a human being. Many consider Socrates as intelligent, insightful, and analytical: one who has the ability to consider all options and consequences when faced with a decision. The Athenian court's judgment of upholding Socrates' choice to die by consumption of poison parallels that of Oregon's, Washington's, and Montana's judgments to allow the practice of PAS. If multiple states have already legalized PAS, based on logical concepts and ideologies, remaining states must take reasonable actions that consist with those of the previous three states in order for citizens of the United States to obtain freedoms.

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