

# **Second Thoughts Connecticut Training: The Dangers of Assisted Suicide Laws**

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# NDY Origin, Issues

- Not Dead Yet is the leading national disability rights group opposed to assisted suicide laws, futility judgments, “mercy killing,” and “better dead than disabled” messages as forms of deadly disability discrimination.
- Founded 1996 in the context of 2 Jack Kevorkian acquittals, Supreme Court cases.
- NEJM: 2/3 of Jack Kevorkian’s victims **were not terminal**, but people – mostly women –with disabilities under terrible stress.
- Media conflates “terminally ill” with disability.

# What are assisted suicide laws?

- Official process begins with oral and written patient requests for a prescription of lethal drugs.
- Doctor labels a patient “terminally ill,” which at present means a prognosis of six months or less to live. A second doctor agrees. Doctor is immunized against liability.
- Doctor prescribes lethal drugs to fatally poison the patient.
- Possible “safeguards” include an evaluation for “impaired judgment,” or a waiting period between request and prescription.

# Marketing: What to Call It

- Bill titles avoid word “suicide.”
- Euphemisms include “Death with Dignity,” “End-Of-Life Options, and current favorite, “Medical Aid in Dying” (MAID).
- American Medical Association, US Supreme Court, & NY Court of Appeals call it: “Physician assisted suicide.”
- Media moving from terming it “assisted suicide” → mentioning both → only “medical aid in dying.”

# Marketing: Buzzwords

- “Right to Die.”
- “Unbearable pain and suffering”
- “My Life, My Death, My Choice”
- “We treat our pets better”

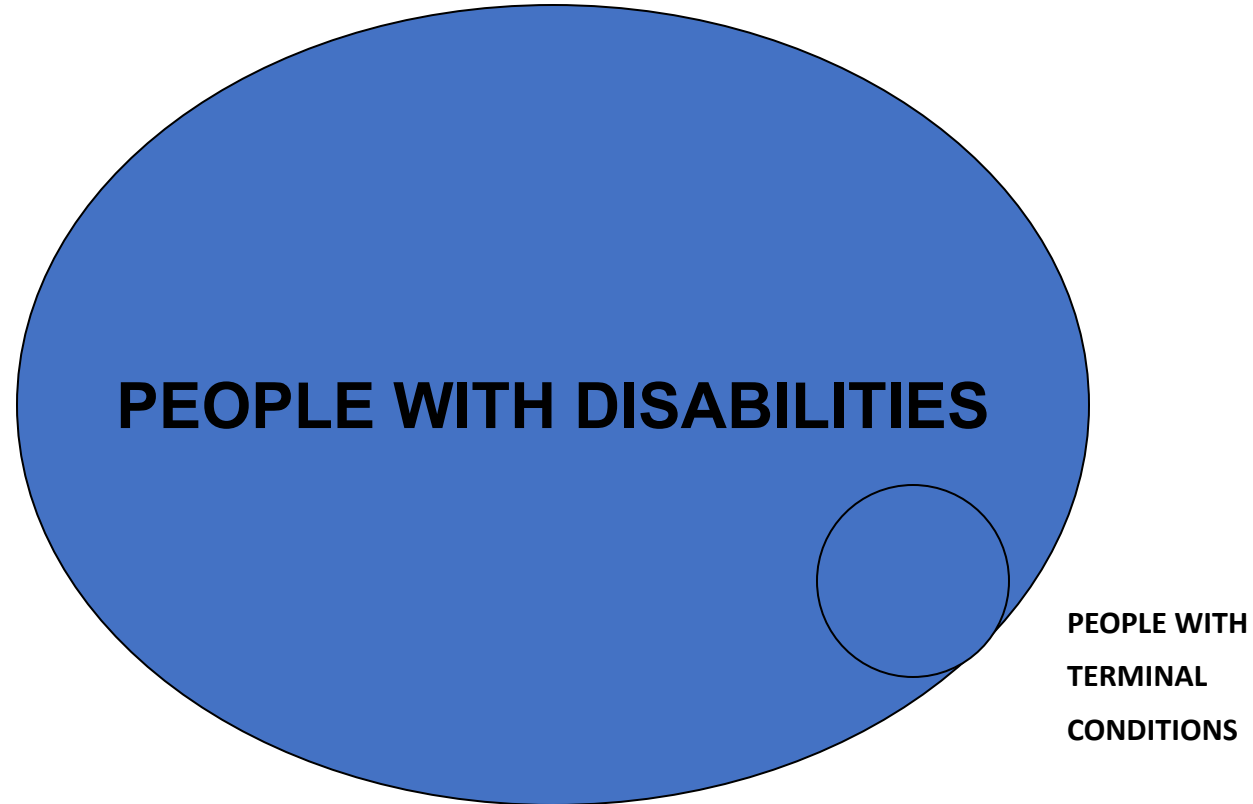
## **Laws supposedly give dying people:**

- “Dignity.”
- “Choice.”
- “Control.”
- “Reassurance.”

# REALITY: It's All about Disability

- People with terminal conditions are or will soon become disabled and form a subset of the vast disability population.
- Proponents routinely deny the part that disability plays in assisted suicide, but some now admit it.
- Bioethicist Thaddeus Pope, in 2020 debate with John Kelly:  
“Everybody who's using medical aid in dying is disabled. And probably you could go to the next step and say **the reason they want medical aid in dying is because of their disability...** So that's a true statement, but I guess the key thing is that's their judgment, right? Some people would say, ‘I find this condition intolerable.’ Other people won’t.”

**REALITY: People with serious illnesses and terminal conditions are disabled**



# Reported Reasons for Assisted Suicide: Oregon

End of Life Concerns	1998-2020
HIS OR HER TERMINAL CONDITION REPRESENTING A STEADY <b>LOSS OF AUTONOMY</b>	91%
THE <b>DECREASING ABILITY TO PARTICIPATE</b> IN ACTIVITIES THAT MADE LIFE ENJOYABLE.	90 %
A <b>LOSS OF DIGNITY.</b>	74%
THE PHYSICAL OR EMOTIONAL <b>BURDEN</b> ON FAMILY, FRIENDS OR CAREGIVERS.	48%
THE LOSS OF CONTROL OF BODILY FUNCTIONS, SUCH AS <b>INCONTINENCE</b> AND VOMITING.	43%
INADEQUATE <b>PAIN CONTOL OR CONCERN</b> ABOUT IT.	27%

# It's All about Disability: Bait and Switch

- Proponent Dan Diaz has said that if he found himself dependent on others for toileting and positioning, “I would then submit, ‘is that really living?’” As leading proponent Lonny Shavelson summed up, “It’s almost never about pain. It’s about dignity and control.”
- Oregon bill-writer Barbara Coombs Lee has spoken of disability scenarios people consider “worse than death,” such as emotional distress over incontinence “more painful than any of the pain from the cancer.”
- Palliative care expert Dr. Ira Byock: “**it’s a bait and switch**. We’re actually helping people hasten their deaths because of existential suffering. That’s chilling to me.” Almost all pain is controllable, Byock said.
- Other countries, including Canada, euthanize disabled people who are not terminal.

# Major U.S. National Disability Groups Opposed to Assisted Suicide Laws

- ADAPT
- American Assn. of People with Disabilities (AAPD)
- Association of Programs for Rural Independent Living (APRIL)
- Autistic Self Advocacy Network (ASAN)
- Disability Rights Education & Defense Fund (DREDF)
- National Council on Disability (NCD): **The Danger of Assisted Suicide Laws (2019)**
- National Council on Independent Living (NCIL)
- TASH
- The Arc of the United States
- United Spinal Association (USA)

# Quality of Life Judgments

“In [a] survey of 714 practicing US physicians nationwide, 82.4 percent reported that people with significant disability have worse quality of life than nondisabled people. . . . [T]hese findings about physicians' perceptions of this population raise questions about ensuring equitable care to people with disability. Potentially biased views among physicians could contribute to persistent health care disparities affecting people with disability.”

Lisa Iezzoni, et al., Physicians' Perceptions Of People With Disability And Their Health Care,” Health Affairs, February 2021

# It's Also All about Race, Class, Ethnicity

- A 2013 Pew Research Center study shows that Blacks oppose assisted suicide by 65%-29%, while Latinos are opposed 65%-32%.
- Assisted suicide participants are overwhelmingly white. 96% of reported assisted suicides in Oregon have been by non-Hispanic whites.
- In California, 94% of reported assisted suicides have been by non-Hispanic whites, twice the group's share of the state population.
- Old Not Dead Yet point that the supporters are the 4W's: the "White, well-off, worried, well."

# Systemic Racism: Racial Disparities

- Due to racial disparities in our healthcare system, Blacks are the sickest patients waiting for organ transplants, yet often die waiting.
- Blacks are diagnosed with cancer at much later stages and the prognosis is worse.
- Blacks get inferior diabetes care, with more amputations.
- COVID-19 has killed Black, Indigenous, and people of color at higher rates than Whites.

# Racial Disparities: Medical Racism

- In a recent study of 1 million children with appendicitis in emergency rooms around the nation, Black children were one-fifth as likely to receive opioid painkillers for their severe pain as White children.
- In a 2016 study, 1/3 of 222 White medical students and residents surveyed held the false belief that Blacks had a higher tolerance for pain, and thicker skins like animals.
- Due to the stereotype of Black patients' noncompliance with doctors' instructions, Blacks are not given state of the art care white patients receive, especially when they have the money.

# How Do Racial Disparities in Healthcare Relate to Assisted Suicide?

Blacks are at risk from assisted suicide laws because racial disparities in healthcare:

- Lead to limited health choices and poorer health outcomes.
- Make it more likely that doctors will “write off” patients as terminal.
- Make it less likely that patients can afford life-saving treatment.
- Make it less likely that patients will receive adequate pain treatment.

# Racial Disparities: Michael Hickson

- 46-year-old Morehouse grad, with wife Melissa and 5 teenage children.
- 2015 cardiac arrest, hypoxic episode and brain injury, quadriplegic.
- Contracts Covid-19, transferred to hospital on June 3, 2020.
- Melissa had lost guardianship of Michael because she had insisted that he needed a specialized rehab facility. Custody given to outside agency.
- Doctor told Melissa that Michael has no “quality of life,” it would be “futile” to treat him, and that it is “in his best interests” to die.

# Culture Clash: Individual Versus the Family

- The doctor is part of the same, mostly white, professional class that supports and uses assisted suicide, and believe individual autonomy, achievement, and status matter most, summed up with “dignity.”
- Melissa and her children, who face-timed with Michael the last day she saw him, believe in family, connection, obligation, and sacrificing for others.
- Professional class proponents want the state to promote the individual over the family/group, a form of cultural domination.
- Suicide is much less a part of Black or Latino culture.
- White suicide more than twice the rate of Black and Latino communities.

# Our Arguments: Cost Cutting

- Real “choice” belongs to insurers, who can deny prescribed treatments at will.
- Legalization makes assisted suicide a “medical treatment,” which gets coverage while traditional, life-saving treatments get denied.
- In Oregon, you can qualify as “terminal” if you can’t afford your treatment, or if treatment stops for any reason.
- Like assisted suicide, use of hospice and advanced directives are also pushed at BIPOC and marginalized people. Cost cutting is the key.

# Example: Dr. Brian Callister's Patients

- Nevada Dr. Brian Callister reported that he had two patients, one from Oregon, and the other from California, who would benefit from medical treatment that's often curative.
- The treatment is routine but expensive.
- The respective medical directors of the patients' insurance companies told Dr. Callister that the procedures were no longer covered.
- They only offered coverage for assisted suicide and hospice.

# Elder & Disability Abuse: One in 10 Elders

**Under assisted suicide laws, an heir or abusive caregiver can:**

- “Encourage” an elder or disabled person to request lethal drugs,
  - Sign the forms as a witness,
  - Pick up the lethal drugs, and even
  - Administer the drug (with or without consent) because no independent witness is required at the death, so who would know?
- Example of Thomas Middleton, who moved into crooked real estate broker’s house, died by PAS, broker sold his house and put some of the proceeds in her own account. Oregon didn’t notice. Feds did.

# Non-terminal people get lethal prescriptions

- In 2020 report, Oregon finally admitted, over all years, 4% of all patients who got lethal prescriptions outlived their six-month prognosis.
- But since studies show 12%-15% of people who enter hospice outlive 6 months, and 91% of Oregon deaths were in hospice,
- That means that up to 10% of program deaths were the result of wrong prognoses.
- Anita's mom

# Palliative care

- Palliative care is specialized medical care focused on providing relief from symptoms and stress of the illness.
- The goal is to improve **quality of life**, as defined by the patient.
- Not just for end of life. Goes with curative treatment.
- Usually involves strong pain meds like opioids.
- Often extends life.
- Experts say almost all pain can be controlled.
- There is always more that can be done.

# Alternative to PAS: Palliative Sedation

- Anyone dying in discomfort that is not otherwise relievable may legally receive **palliative sedation**, wherein the patient is sedated to the point where the discomfort is relieved while the dying process takes place.
- So, there is already a legal solution to painful deaths that does not endanger others the way an assisted suicide law does.

# Voluntary Stopping Eating and Drinking (VSED)

- We do not support or recommend.
- Person is usually sedated while dying takes place, 1 – 3 weeks.
- Promoted by some assisted suicide advocates like Thaddeus Pope for people who want to die but don't qualify as terminal.
- One pro-VSED group defines “Living Terminally” as “when a person lives with a debilitating disease and they depend on 24/7 care for ADLs (Activities of Daily Living), they've lost a quality of life that cannot be restored.” VSED as solution.

# Discriminatory Double Standard

- Assisted suicide is discriminatory under the ADA.
- If you're non-disabled and want to kill yourself, you get suicide prevention services.
- If you have a disability and want to die, you get suicide assistance.
- While some individuals may be safe from mistakes, coercion and abuse, a public policy of assisted suicide ignores the significant impact on society for a larger group of people who don't have access to high quality healthcare, financial resources, and a loving family.

# The only real safeguards protect doctors and other suicide assisters

- Doctors are not held liable if they say they acted in “good faith,” a virtually impossible standard to disprove.
- The “good faith” standard makes the other so-called “safeguards” unenforceable.
- For ALL other medical procedures, doctors are held to the higher standard of “negligence”.

# Assisted Suicide Laws Are Immunity Statutes

Oregon Revised Statute Sect. 127.885:

“No person shall be subject to civil or criminal liability or professional disciplinary action for participating in good faith compliance with [the Death With Dignity Act].”

# Lack of Oversight

## Secrecy Rather than Transparency:

- Data self-reported by prescribing doctors
- Too few questions asked
- No verification; neither resources nor authority to investigate abuses.
- Death certificates report cause of death as underlying disease
- Underlying data in Oregon is destroyed annually

# Violations Go Unpunished: Wendy Melcher

- Trans woman **Wendy Melcher** was terminally ill but had not taken the steps required to be provided assisted suicide.
- Her hospice nurse and another nurse, one of whom was allegedly having an affair with Wendy's partner, caused her death with massive doses of morphine.
- They were not referred to authorities for prosecution. Oregon nursing board secretly gave them light discipline, and they returned to nursing.
- Wendy's family didn't learn how she died until a reporter's call years later.
- The Portland Tribune wrote: "If nurses — or anyone else — are willing to go outside the law, then all the protections built into the Death With Dignity Act are for naught."

# Suicide Contagion

“Consider . . . the Werther effect — the fact that publicized cases of suicide can produce clusters of copycat cases, often disproportionately affecting young people . . . . This finding has been replicated many times . . . , including research demonstrating this effect following cases of doctor-assisted suicide.”

Dr. Aaron Kheriaty, “The dangerously contagious effect of assisted-suicide laws” (Wash. Post, Nov. 20, 2015)

## Suicide Contagion, cont.

Dr. Kheriaty: “[T]he U.S. [CDC] . . . and the U.S. surgeon general have published strict journalistic guidelines for reporting on suicides to minimize this effect. . . . [T]hese guidelines were widely ignored in the reporting of recent instances of assisted suicide, with the subject’s decision to end his or her life frequently presented in the media as inspiring and even heroic.”

## Suicide Contagion, cont.

- Oregon legalized assisted suicide in late 1997.
- After decreasing in the 1990s, Oregon suicide rates have been increasing significantly since 2000.
- By 2007, Oregon's suicide rate was 35% above the national average.
- By 2010, Oregon's suicide rate was 41% above the national average.

# Canadian “Give Me Liberty or Give Me Death” Case – Aug 2019

CBC News photo of Sean Tagert, a man using a ventilator, motorized wheelchair and a computer.



# Canadian “Give Me Liberty or Give Me Death” Case, cont.

- Sean Tagert was a 40-year-old man with ALS living in British Columbia.
- He needed 24-hour in-home assistance in order to live independently, but was only offered 20 hours.
- Local health authorities suggested that he move into long-term care, but the only available facility was 4.5 hours' drive from his home and family, with no room for his computer-communication set up.
- He refused, saying death was preferable.

# Canadian case – Truchon & Gladu

Photo of two motorized wheelchair users in a room with bookcases, Nichole Gladu with post-polio syndrome and Jean Truchon with cerebral palsy. (Photo by Ivanoh Demers/Radio Canada)



## Truchon & Gladu, cont.

Quebec Superior Court:

Struck down Canada's medical assistance in dying law's requirement of "reasonable foreseeability of natural death."

# Canadian Bill C-7 Passed

From the Council of Canadians With Disabilities:

- Bill C-7 makes Medical Aid in Dying (MAID) available to healthy people with disabilities. In contrast, other Canadians are offered suicide prevention.
- Bill C-7 provides access to MAID for people with mental illness. Before this measure comes into force, there will be an 18-month study period.

# So-Called “Narrow” Proposals Have Expanded

“The Netherlands has moved from assisted suicide to euthanasia [lethal injections], from euthanasia for the terminally ill to euthanasia for the chronically ill, from euthanasia for physical illness to euthanasia for psychological distress and from voluntary euthanasia to nonvoluntary and involuntary euthanasia.”

Dr. Herbert Hendin, Congressional testimony

# Assisted Suicide Expansion in the U.S. – Waiting Periods Reduced

- Many states with assisted suicide laws have seen bills to remove “limitations” once hailed as important protections.
- Oregon amended its law to permit waiver of the 15-day waiting period for patients who could not wait.
- Other existing assisted suicide states (HI, WA, VT) also introduced bills to amend their waiting periods.
- In 2021, California enacted that change.
- Prospective assisted suicide states also introduced bills with shorter or waivable waiting periods. In 2021, New Mexico enacted that change.

# Assisted Suicide Expansion in the U.S.

- Many states have been considering bills to expand the types of clinicians qualified under the law.
  - Who can provide assisted suicide – advance practice registered nurses, physician assistants, etc.
  - In 2021, New Mexico enacted that change.
- Some states are proposing VSED by advance directive so that a person with legal capacity can bind their future self who may be deemed incapacitated.
  - Nevada has passed such legislation for people with dementia.

# Assisted Suicide Expansion in the U.S. – Through the Courts

- A federal lawsuit in Oregon challenges the residency requirement.
- A federal lawsuit in California challenges the prohibition on assisting with self-administration.
- And there are [growing calls](#) to extend the required terminal prognosis beyond six months.

# Summary: “Safeguards” Don’t Work

1. Healthcare cost cutting pressures – assisted suicide is cheapest “treatment.”
2. No independent witness required at the bedside – If the person struggled, who would know?
3. Prognoses of six months are often wrong.

# Summary: “Safeguards” Don’t Work, cont.

4. Depression and family/social issues, home and community-based services issues need not be addressed.

5. Minimal reporting by prescribing doctor, no verification, no investigation and no meaningful oversight required.

# Summary: “Safeguards” Don’t Work, cont.

6. No sanctions for failing to ensure eligibility or conform to law’s provisions; no means of enforcement.

7. Expansion of eligibility & loosening restrictions already being promoted.

# SUMMARY

Under assisted suicide, some people will lose their lives, through insurance denials, persuasion, coercion, and abuse, misdiagnosis, and unequal access to medical treatments. No safeguards have ever been enacted or even proposed, that can prevent this outcome, which can never be undone.

# Questions?