Physician Assisted Suicide Legalization in the United States

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Abstract

In a growing society of medicine there are countless people with terminal illnesses that cannot be cured. These people can suffer a long time with anything from physical pain or even a declining mental view of life. In some cases, in certain states, patients can choose to peacefully end their life through the process of physician assisted suicide (PAS). From past Supreme Court rulings from Vacco v. Quill and Washington v. Glucksberg which challenge the Equal Protection Clause and Due Process Clause respectively. After both rulings were decided, the Supreme Court left the decision of physician assisted suicide up to each individual state to decide if it show be legal. Eleven states have PAS legalized with countless strict requirements, such as age, confirmation of a terminal illness with a six-month prognosis, location of patient care, physiological evaluations, formal requests for the medicine, and physical capability to administer the medicine themselves. Based on different research, it has shown that the physical toll an illness has on a patient's body can influence the mental aspect, too. Studies have shown that the leading physical cause of terminal illnesses, fatigue, can lead a patient to develop a feeling of a less meaningful life due to not being able to perform their normal daily tasks. Furthermore, contrary to most medical ethics, PAS can be supported by different ethical principles. Patients hold a right to make their own rational decisions and their wishes can be honored by legalizing PAS throughout the United States. In the process of PAS, patients hold their own power to end their suffering peacefully, having control over their illness, and families can have closure. Other treatment such as palliative medicine sometimes can only causing more suffering. By legalizing physician assisted suicide, terminal patients can have the option to peacefully end pain and suffering while in the end stage of their terminal illness fight.

Introduction

Have you or a loved one ever experienced a long-term illness? In a growing society of medicine there are countless people with terminal illnesses that cannot be cured. These people can suffer a long time with anything from physical pain or even a declining mental view of life. You may ask yourself many tiring questions such as, 'will I ever feel better?' which can be mentally draining for those physically suffering every day. In certain states, in which a majority side is more Democratic, there is the option of physician-assisted suicide (PAS) that gives the patient a choice of permanently ending their life which takes away that pain they have been going through. Physician-assisted suicide is legal in the District of Columbia, Vermont, Maine, Hawaii, Washington, Colorado, California, New Jersey, New Mexico, and Oregon (How to Access and Use Death with Dignity Laws, 2021). Should physician-assisted suicide continue to be legalized in these states for all citizens?

The topic of physician-assisted suicide can be controversial when looking at different areas within the topic. The current Supreme Court ruling has allowed each state in the United States to choose whether physician-assisted suicide should be deemed legal. However, each case of a terminal illness is different when looking at the correlation between the patient's condition and mental health. Some patients are mentally strong, and some can become engulfed in the physical ailment of their situation. The most controversial area is the ethical argument because there are multiple areas to address, such as the patient's wants, and the family's and doctor's emotional affect. There are many areas to consider when deciding if physician-assisted suicide should continue to be legalized. I believe this is an important topic because many patients living with a terminal or chronic illness face struggles physically in their daily lives that can ultimately lead to a poor mental well-being. Based on past Supreme Court rulings, the

relationship between physical illness and mental health, and ethical principles, physician-assisted suicide should become a legal right to all Americans in the United States.

Terminal illness is a condition in which is fatal to one's life. Common examples are cancer, HIV, and liver disease (Common terminal diagnoses, 2013). However, chronic illness is a condition that lasts over a period of time, typically 1 or more years, they are often incurable, but not always life-threatening. According to the Department of Health, 2021, a couple of the major chronic illness examples are heart disease, stroke, lung cancer, depression, and arthritis. It is possible that "some chronic illnesses can be immediately life-threatening, such as heart disease and stroke" (Chronic Illness, 2021). Also, some chronic illnesses such as arthritis, are not always the cause of death for those living with it. According to the Death with Dignity Law, also known as physician assisted suicide, require those that fit the criteria of "having a terminal illness with a confirmed prognosis of having 6 or fewer months to live" (Death with dignity acts, 2021). The law requires those that have a terminal illness to be eligible for physician assisted suicide.

Legality

In recent years, physician assisted suicide has been a topic of controversy, however, Supreme Court ruling has allowed each state in the United States to choose whether if PAS should be deemed legal. Due to both court cases taken place and decided in 1997, Vacco v. Quill and Washington v. Glucksberg, the current law for physician assisted suicide is dependent on each state's individual decision. In the case Vacco v. Quill, "New York physicians' asses that, although it would be consistent with the standards of their medical practices to prescribe lethal medication for mentally competent, terminally ill patients who are suffering great pain and desire a doctor's help in taking their own lives" (Legal Information Institute, 1997). In New York and

many other states, it is illegal for those to aid in another person's death, but the patient can refuse life-saving treatment. This case, along with physicians, 3 terminally ill patients sued the State's Attorney General on the grounds of the ban violating the 14th Amendment, Equal Protection Clause. The Equal Protection Clause states that "States must treat like cases alike but may treat unlike cases accordingly" (Legal Information Institute, 1997). One of the major debates in the Vacco v. Quill case was that New York "accords different treatment to those competent, terminally ill persons who wish to hasten their deaths by self-administering prescribed drugs than it does to those who wish to do so by directing the removal of life support systems, and that this supposed unequal treatment is not rationally related to any legitimate state interests" (Legal Information Institute, 1997). By end of the trial, the ruling was held with the reasoning that it does not violate the Equal Protection Clause. Prior to the second case, Washington v. Glucksberg, at the time the law states that it is a crime to assist suicide in Washington State. In the case of Washington v. Glucksberg, 4 Washington physicians, and 3 ill patients sued the State and its Attorney General on the grounds of the ban being unconstitutional. It was held that "Washington's prohibition against causing or aiding a suicide does not violate the Due Process Clause" (Washington v. Glucksberg, 1997). The Due Process Clause is that federal or state government cannot prevent the right to life, liberty, or property. Major examination within the case was done on the Nation's history of legal traditions and practices, fundamental liberty, and the Anglo-American common law which has looked down upon assisted suicide for 700 years (Washington v. Glucksberg, 1997). These traditions that were in place never exhibited exceptions to those close to death. Through re-examination, the court decided to reverse the law due to the Nation's history and it led to the conclusion, "respondents' asserted 'right' to

assistance in committing suicide is not a fundamental liberty interest protected by the Due Process Clause" (Washington v. Glucksberg, 1997).

The Washington v. Glucksberg court case led to the Supreme Court decision; physician assisted suicide is not protected under the Due Process Clause. Both these cases were brought to the Supreme Court in June of 1997 where it was ruled that there is no constitutional right to physician assisted suicide for all patients, neither on the grounds of the Equal Protection Clause, from Vacco v. Quill, nor the Due Process Clause, from Washington v. Glucksberg. Thus, these states were allowed to outlaw physician assisted suicide, however, the Supreme Court did not consider the importance of pain with treatment and the right to refuse medical treatment. Also, it left the option of the states deciding what they should do because the Supreme Court ruling held that a state could forbid PAS. Therefore, states began allowing PAS, first beginning in Oregon.

In Oregon, there are supporting's of PAS decisions by the Death with Dignity Act. Death with Dignity Act allows eligible individuals the legally request and administer medication from their physician "to end their life in a peaceful, humane, and dignified manner" (Parrot, 2021). This allows patients to legally express their right of liberty in the states that have this legislation. Also, the right of liberty and self-determination is protected under the Due Process Clause. Each patient has a liberty that is supported by the Due Process Clause, which reverses the ban of PAS, however, it is only legal in 10 states. "Protections in the statutes ensure that patients remain the driving force in end-of-life care discussions" (Death with Dignity Act, 2021). Only patients can make this decision for themselves. Many requirements ensure a patient is capable and fit to go through PAS treatment such as the patient's written request must be witnessed by 2 people, one cannot be a relative (Death with dignity acts, 2021). Also, the Equal Protection Clause protects individuals from the federal government and state government preventing equal rights (Equal

Protection, 2021). This amendment is crucial for civil rights protections. Both these clauses can relate to the patient ethically because being protected under the clauses, the patient can have a feel of control over their life. Only some state governments allow PAS liberties, however, a majority of the U.S. is not able to practice this right due to the state government ban. Terminally ill patients living in a PAS-banning state are not allowed to express their right in the choice of PAS, which does not give them a feeling of freedom for this option. According to the Supreme Court ruling in 1997, PAS is not supported by the Due Process and Equal Protection Clause, however today not all individuals hold the liberty of choosing PAS. To uphold the constitutional right of these amendments, PAS should be an option for all citizens within the U.S.

Today with multiple states allowing PAS, certain requirements are permitted. Requirements are slightly different for each state, but they all have a requirement age of 18 years old, residency of the physician must be in the same state as the treatment, being mentally capable and sound of mind, and confirmation of terminal illness with a prognosis of 6-months. Also, the requirement of the formal requests includes 2 oral requests to a physician by only the patient and a written request that is witnessed by at least 2 people where the witnesses must believe the patient is capable and one witness cannot be a relative by blood, marriage, or adoption (Death with Dignity Act, 2021). As well as the formal request, the patient must be deemed capable to self-administer the medication themselves. If the provider physician determines that the patient is suffering from a mental health issue, the patient must be sent to have a psychological evaluation (Death with Dignity Act, 2021). After all requirements are cleared, there may be a waiting period to dispense the medication which gives the patient the opportunity to process their decision with their families (States with legal physician-assisted suicide, 2020). If "anyone who falsifies a request, destroys a recission of a request or who coerces or exerts undue influence on a

patient to request medication under the law or to destroy a rescission of such a request commits a Class A felony. The law also does not limit liability for negligence or intentional misconduct, and criminal penalties also apply for conduct that is inconsistent with it" (Death with Dignity Act, 2021). PAS is an extensive life-ending treatment, and all patients that want to follow through with their request need to pass all the strict requirements of this treatment.

All states have the same basic requirements, and it is shown how the states of Oregon and New Jersey go through their process of PAS. Oregon has an age requirement of 18 years or older to receive treatment, as well as the physician and patient, must be a part of the same residency (States with legal physician-assisted suicide, 2020). The patient must be diagnosed with a terminal illness that will lead to death within 6 months. Furthermore, each patient must be capable of making and communicating treatment decisions for themselves and be able to administer the pill themselves. Lastly, the requirements of Oregon include the diagnosis must be certified by a consulting physician, if deemed mentally impaired the patient must be referred to a psychological examination, the attending physician must inform the patient of alternatives such as palliative care and hospice, and the physician must request that the patient notifies the family of prescription request (States with legal physician-assisted suicide, 2020).

In the state of New Jersey, the patient requirements include age, residency, diagnosis of terminal illness, second physician opinion, being sound of mind, a psychological examination, knowing other options, and 2 oral requests and 1 written. In New Jersey, a patient must be 18 years old to be treated with PAS. Also, the physician must be licensed in the same state as the patient. Once the request was completed, there is a 48-hour waiting time before picking up the prescribed medicine. In both states, contracts, wills, insurance policies, and other agreements cannot restrict the patient from their request. Also, the Department of Human Services – Health

Services enforce compliance with the law, and those that comply are protected from criminal prosecution (States with legal physician-assisted suicide, 2020). There are many strict requirements to PAS because it is an immense treatment, however, most states are similar in their requirements for, but may differ slightly.

Relationship Between Terminal Illness and Mental Health

Those with terminal illnesses have shown signs of developing a mental illness due to the severity of their illness. Having a terminal illness takes a toll on the body physically and mentally. The physical pain aspect within terminally ill patients are leading factors towards a decline in mental health, thus leading patients to choose PAS treatment. In a study, "77% of patients who desired a hastened death had moderate to severe pain" (Fine, 2001). On the other hand, in the same study, it was determined that physical symptom severity was a "less potent factor than either psychological or social symptoms" (Fine, 2001). Also, along with physical pain, there are other symptoms most common in terminally ill patients that often contribute to suffering near death and lead to the desire of choosing PAS. These patients can suffer from the symptom of "fatigue, anorexia, cachexia, nausea, vomiting, constipation, delirium and dyspnea" (Ross & Alexander, 2001). Fatigue is the most common and most influential factor that terminally ill patients suffer from. Fatigue in patients can be defined as, "symptoms of tiredness, a general lack of energy not relieved by rest, diminished mental capacity and the subjective weakness associated with difficulty in performing activities of daily living" (Ross & Alexander, 2001). Suffering from fatigue can be difficult because patients cannot experience or perform daily activities that they enjoy. Often patients facing terminal illness, distress intensifies the perception of anxiety, futility, meaninglessness, sense of loss, and being unsupported (Jingyi Chen, 2018). Those with a stronger mental capacity are correlated with positive well-being,

however, a negative mental capacity is related to negative symptoms of depression, pain, end-of-life despair, and hopelessness (Jingyi Chen, 2018). Most patients are influenced to engage in PAS due to illness-related experiences, such as fatigue, functional losses, a loss of their sense of self, and fears about the future, however, none of the patients were acutely depressed when planning PAS (Pearlman et al.). Living with a 'lack of energy' these patients lose a sense for life correlating to mental health.

The mental health issue of those with terminal illness is found to be worse than those that do not have a terminal illness. According to ADAA, those that have terminal illness are 6 times more likely to develop depression than those that do not according to the ADAA. In a study of postmortem data of cancer patients, it is proven that those with cancer are more frequent in the suicide population as compared to the general population. In a sample of 232 cases, including suicide and a controlled group, it was examined that 8.6% of cancer patients were found in the suicide group and 3.9% of cancer patients were found in the controlled group (Grandmaison et al., 2013). The main discovery of this study is the suicide rate in cancer patients is greater than the controlled population, and that 75% of cancer-related suicides were linked to depression (Grandmaison et al., 2013). As compared to the general population without illness, terminally ill patients are more likely to develop a mental issue that led to suicide. However, "most patients were motivated to engage in PAS due to illness-related experiences (e.g., fatigue, functional losses), a loss of their sense of self, and fears about the future. None of the patients were acutely depressed when planning PAS" (Pearlman et al.). The law prevents patients that have mental issues from following through with PAS unless they are deemed mentally capable and free of mental illness. Giving those the option of physician assisted suicide, patients can go through the

process of discussing with their families and doctor allowing them to say last 'goodbyes' and to alleviate their physical and mental suffering.

Ethics

Physician assisted suicide becomes immensely controversial when assessing it from an ethical side. There are many arguments for PAS. A compassionate argument is the ethical principle of beneficence. "The principle of beneficence is the obligation of the physician to act for the benefit of the patient and supports a number of moral rules to protect and defend the right of others, prevent harm, remove conditions that will cause harm, help persons with disabilities, and rescue persons in danger" (Varkey, 2020). For the argument on the grounds of beneficence, for terminal cases, PAS shortens physical pain and suffering. PAS eligibility requires an illness to be deemed terminal with a 6-month prognosis. Choosing PAS allows that patient going through painful treatment and possibly suffering mental issues a shorter end in advance of a greater suffering. Due to legislation, not allowing for the option of PAS allowing "a patient to needlessly suffer can cause additional pain and distress, which can ultimately eliminate whatever shred of dignity the patient may possess" (Llamas, 2019). Allowing PAS can rid conditions that can cause harm and end painful suffering.

Furthermore, autonomy is another argument that can give the patient a feeling of control. A patient may not be able to control the condition of their illness but can make a decision that they believe can benefit them. "The philosophical underpinning for autonomy, as interpreted by philosophers Immanuel Kant (1724–1804) and John Stuart Mill (1806–1873), and accepted as an ethical principle, is that all persons have intrinsic and unconditional worth, and therefore, should have the power to make rational decisions and moral choices, and each should be allowed to exercise his or her capacity for self-determination" (Llamas, 2019). Referencing back to legality,

the principle of autonomy allows the patient to make a rational decision of choosing PAS, and similar to equal protection and liberty under the equal protection and due process clauses. This gives a patient a feeling of control over their life, unlike feeling meaningless from their illness. Also, it is argued that palliative medicine is not always sufficient to alleviate significant pain and suffering, and patients may not feel a mental relief, "undergoing cancer treatments they were sure the cure itself was going to kill them" (Wilke, 2018). Medicine can manage pain; however, it cannot take away the mental aspect of feeling a lack of enjoyment for life. Allowing an option for PAS may alleviate the patient from any long-term physical and mental suffering through a peaceful, painless death. Also, in some cases, there are patients that cannot afford proper treatment or lack access to quality health care.

Some may be concerned about the families of the patient and the emotional effect on doctors. PAS allows for families to gain closure knowing the time of passing. In some states, there is a time frame where families can process and express their feeling with the patient choosing PAS. The waiting period for the medicine allows families to spend the time gain closure by saying their last 'goodbyes'. For doctors, they took an oath of nonmaleficence. Due to the oath, they cannot cause harm to the patient, however, doctors are not causing harm. Physicians do not physically administer the medicine to the patient. Under the PAS requirements, a patient must be capable of administering the medicine themselves. Thus, physicians are not causing direct harm to a patient. Although family members and doctors can be an ethical factor towards PAS, patients have individual rights that are protected. Overall, their well-being is their decision.

Conclusion

PAS is a life-change treatment for patients of terminal illness, their loved ones, as well as their doctors. The decision of making the PAS legal is currently determined based on each state due to the court cases of Vacco v. Quill and Washington v. Glucksberg in 1997. Since the treatment is life-ending the requirements are immensely strict and require many screenings and formal requests. There are many screenings because of the history, data, and relationships between terminal illness and mental health. Under the Due Process Clause and Equal Protection Clause, they permit individuals to hold a liberty right that cannot be taken away by federal or state governments, which can allow PAS in all states. Also, there is a positive correlation between having a terminal illness and developing a mental health issue. Terminal patients can suffer from pain, nausea, and fatigue; physiological conditions, such as depression and anxiety; or existential suffering of hopelessness and a feeling that their life has ended in a biographical sense. Fatigue is the number one leading physical effect of terminal illnesses that can lead to a worthless feeling for life. PAS is a major ethical issue under the topics of beneficence and autonomy; however, patients are protected by many clauses, and can capably decide what is best for their well-being. Due to strict requirements and medical pledges, patients are overseen to ensure they are capable of making their own decision. For some patients, it brings comfort and a sense of control over the manner and timing of their death. PAS allows patients to end their suffering while being protected by many clauses, as well as giving time for loved ones to say 'goodbye' and gain closure. Due to protection clauses, medical research, and ethics, PAS is a decision that should be a feasible option for all citizens suffering from a terminal illness to end their suffering.

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