



FREQUENTLY ASKED QUESTIONS ABOUT DEATH WITH DIGNITY

Can the federal government use the Controlled Substance Act to overturn Oregon's law?

The Controlled Substances Act is a federal law governing the trafficking of illegal drugs like cocaine and ensures that legal narcotics are used only for approved medical purposes and not diverted for illegal use. The Controlled Substances Act does not apply to the Death with Dignity law because the Oregon law specifies and permits the legal use of certain controlled substances. In addition, the states, not the federal government, have historically determined what legitimate medical practice is. To surrender this authority to the Justice Department would be an unprecedented federal intrusion into states' authority to regulate medical practice.

What is the legal history of the Oregon law?

Oregonian voters twice affirmed that death with dignity measures represent legitimate medical practice – an opinion that has been upheld in by a U.S. District Court and a U.S Court of Appeals. As long as physicians adhere to the Oregon law's strict safeguards and restrictions, they are protected. In two 1997 cases, the Supreme Court found no federal right to physician assisted death, but it encouraged an "earnest and profound debate" about the issue and determined that the issue was more appropriately decided by the states. Oregon made its decision, and the law finally went into effect on October 27, 1997.

Would a defeat in *Gonzales v. Oregon* put an end to physician assisted deaths?

If the Court rules in favor of Attorney General Gonzales, Oregon patients' legal choices will be narrowed to "extra-legal" and far riskier options. Physician-hastened dying for persons with terminal illness happens every day in every state. Oregon is the only state in which the practice is legally recognized and sanctioned. Laws will not prevent dying patients from seeking an end to their suffering, nor will laws prevent some doctors from quietly helping their dying patients who ask for help. By passing the law, Oregonians actively protect patients, their physicians and loved ones by strictly regulating the practice and ensuring that no abuse or coercion occurs.

Is Oregon's law a "slippery slope" toward euthanasia?

Absolutely not. Oregonians would not have permitted such a law. The law is written specifically to ensure that patients with terminal illness are in full control of their own dying process. The law's numerous safeguards are specifically built around – and *guarantee* – direct patient involvement. In direct contrast, euthanasia is an ambiguous concept that implies acts that are imposed upon another person, with or without their consent and regardless of their participation. Oregonians simply will not permit such acts; and since the Oregon law was enacted, there have been no efforts to expand the law beyond its stringent self-administration requirements. Moreover, the Death with Dignity National Center will *strongly* oppose any such efforts.

Why is the Oregon law so successful a model that other states are closely watching?

1. The Oregon law respects and upholds the integrity of the doctor-patient relationship.
2. The Oregon law requires that the patient self-administers the prescribed medication to hasten death.
3. The Oregon law ensures that the patient – *and no one else* – is the driving force, the ultimate and conscious decision maker in the process.

There have been cases in which a patient is told they have only six months to live but who live much longer. Does the Oregon law encourage patients to act too soon?

Only persons with terminal illness and diagnosed within six months of dying are able to request the law. The law is most often used as a last resort, at a stage in their illness when each day becomes increasingly unbearable.

Isn't it possible that a few greedy, unethical or over-burdened family members or care givers coerce use of the law?

The law *specifically* requires that if there is *any* evidence of coercion, the process is immediately stopped. Moreover, physicians who work regularly and closely with terminally ill patients ensure that the law's second physician's opinion requirement *alone* ensures against coercion. Further, the State of Oregon reports of no evidence of coercion since the law's enactment.

Medicine is so advanced today. Wouldn't proper pain management negate the need for a death with dignity law?

No. In fact, even the law's most strident opponents admit that even the most aggressive pain management measure fail to alleviate the suffering of 5% of persons with terminal illness. Sadly, current DEA activities, in many cases, prevent the 95% of patients who could have received adequate pain management from receiving it because their doctors fear DEA investigation. In addition, pain is only one complex problem among many, including loss of dignity and autonomy and immeasurable mental and emotional anxiety and fear.

Don't people hasten their own deaths through overdoses or by refusing medication or nutrition and hydration – just as easily as if they chose to use Oregon's law?

Ironically, refusing nutrition and hydration are "legal" ways in all 50 states for someone to end their life. However, such processes can take several weeks and the effects are unpredictable. The one certain effect is that the patient will have to be sedated to unconsciousness so as not to feel the pain of starvation and dehydration, and they will likely be in that state for several days to weeks depending upon a variety of factors. The main purpose of the Oregon law was to provide the dying patient with absolute control, predictability and the peace of mind that comes with *knowing* – knowing the how and when of their death. Most Americans view this as the more humane approach.

Has hospice utilization in Oregon decreased since enactment of the law?

No. In fact, Oregon has more than 50% hospice usage, which is among the highest hospice utilization rates in the country. This is largely due to the fact that more Oregonians are aware of end of life options than ever before.

With the availability of the law, how can patients trust that their doctor will still do everything possible to cure them?

The fact is that many healthy Oregonians today discuss end of life issues with their doctors. More and more Oregonians expect to be an active participant and decision maker in their own end of life, including completion of advance directives or “living wills.” As a result, Oregon physicians are working harder and harder to prolong their patients’ lives, while respecting patients’ final wishes when their suffering becomes intolerable. Most Oregonians expect that their doctors will not abandon them if the suffering becomes unbearable and that their doctors will work with them if they choose death with dignity. This is the integrity of the patient-doctor relationship.

Does Oregon’s law contribute to what has been called a “culture of death”?

Quite the opposite. Oregon’s law has provided real peace of mind to many dying patients who say “I don’t know if I’ll use the law, but knowing it’s there if I need it makes me feel more at ease.” Providing this peace of mind is *life affirming*, regardless of how much life is left.

Are people with disabilities encouraged to use the law?

No one is encouraged to use the law. It exists only for those with terminal illness whose mental, physical and emotional suffering has become intolerable to them and who wish a peaceful and dignified passing. The Oregon law is rarely used. In fact, it is possible that its greatest impact is simply in the comfort it provides those who may never use it. There are many persons in the disabled community who support the Oregon law – not because they are disabled people, but because they are people.

Are racial minorities and the poor, undereducated, uninsured and other marginalized persons encouraged to use the law.

No one is encouraged to use the law. To date, persons who have chosen to use the law have been well educated, have had excellent health care, have had good insurance, have had access to hospice and have been well supported financially, emotionally and physically.

How can we really know how many people have used it the law or how successful it has been if doctors aren’t compelled to report under the Oregon law?

Doctors cannot qualify for legal protection under the law if they fail to report to the Department of Health and Human Services. Any physician who fails to report to the State would be subject to reprimand and possible loss of license.

Won’t HMOs and insurance companies encourage people to use the law to protect the bottom lines from expensive treatments?

No one is encouraged to use the law. The decision to use or not to use the Oregon Death with Dignity law occurs among dying patients and their doctors and loved ones. Absolutely no HMO or insurance company participates in this process. And if an HMO or insurance company were to interject themselves into so personal and difficult a decision, this would constitute coercion, which is strictly prohibited under the Oregon law.

Do people move to Oregon in order to use the law?

The law requires persons who are terminally ill to be legal residents of the State of Oregon. The Department of Health and Human Services has no reports of individuals moving to the state in order to avail themselves of the law.

There has been a concern about under-reporting with respect to the DWD law, is it a valid criticism?

There are actually two ways to look at under-reporting. First, opponents suggest that doctors are not reporting to the state. In fact, if doctors do not file reports as required, they do not qualify for the law's "safe harbor" and thus can and should be prosecuted. There are no cases like that in the law's history. The second way under-reporting is an issue is in how prescriptions are used, or not used by patients. The State is only monitoring cases where patients die of the lethal dose of medication allowed under the law. If a patient qualifies for the law but does not use the medication, they are not counted in the State's annual report. If these numbers were tracked we would see even broader acceptance of the law than we currently do, which is amazing considering how much support the law has statewide in Oregon.

By hastening death, does Oregon's law circumvent the dying process and the potential for closure and healing that could occur between the patient and loved ones?

Actually, the experience in Oregon demonstrates quite the opposite. The processes of healing and closure for the dying are not abbreviated and circumvented by use of the law. Rather, healing and closure are enhanced by allowing the dying individual and their loved ones to support one another and say their goodbyes. In fact, those who have used the law had been facing death for years and ultimately chose to use the law only as a last resort.

Is Oregon's law the equivalent of "playing God?"

We are witnessing today, previously unimaginable medical advances and life expectancies unheard of only a generation ago. Unfortunately, these achievements have not been equally reflected in the treatment of pain and in how we approach the process of dying. In fact, with all of medicine's advances, it is often only the suffering and process of dying that are prolonged rather than the quality of life. Persons who are trapped in prolonged suffering prior to an inevitable death, and who choose to *hasten* that death, do so not as God, but as a conscious, self-determined individual. This is no more playing God than it is to suggest that one more procedure, one more pill or one more feeding tube may preserve a life that is all but ended.

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