Physician-assisted suicide and psychiatry

Brendan D Kelly
Declan M McLoughlin

Abstract
Physician-assisted suicide (PAS) is the death of an individual that occurs as a result of deliberate, purposive actions taken by that individual, with the assistance of a physician. In the UK, assisting with the death of another individual is illegal, but other parts of the world, such as the state of Oregon in the USA, have laws that permit PAS in certain circumstances. In the Netherlands, PAS may be provided for either physical or psychiatric illness, although requests for PAS emanating from psychiatric practice rarely tend to be granted. PAS, especially in the context of psychiatric illness, raises a range of clinical, ethical, and legal issues for patients, families, healthcare providers. and society at large. Even in jurisdictions where PAS is not provided on the grounds of psychiatric illness alone, there is a range of other ways in which the issues surrounding PAS may come to the attention of psychiatrists and mental health teams. These include: requests to provide mental health care to individuals with terminal physical illness, who may or may not request PAS; requests to assess the capacity or capability of individuals with terminal physical illness who request PAS; and requests to assess, support, or treat families or staff members who have had involvement with PAS. There are important issues that merit close attention and point to a strong need for enhanced psychiatric liaison with terminal care providers.

Keywords assisted suicide; ethics; mental disorder; psychiatry; terminal care

What's new?

- In 2006, the House of Lords in the UK rejected the Assisted Dying for the Terminally Ill Bill, which was closely modelled on Oregon's Death with Dignity Act, with the result that the law in the UK remained unchanged[2]
- In 2006, the Oregon Death with Dignity Act was challenged in the US Supreme Court, but the Court ruled that the Attorney General could not enforce the Controlled Substances Act against physicians prescribing medications to terminally ill patients, with the result that the law in Oregon remained unchanged
- In Washington, the 'Washington Initiative 1000' was adopted in 2008, permitting a terminally ill, competent, adult Washington resident who is medically predicted to die within 6 months to request and self-administer lethal medication prescribed by a physician

Introduction

Physician-assisted suicide (PAS) can be defined as the death of an individual that occurs as a result of deliberate, purposive actions taken by that individual, with the assistance of a physician. PAS raises a range of clinical, ethical, and legal issues for patients, families, healthcare providers, and society at large. In this article, we examine the issue of PAS in the context of psychiatry, and focus particularly on arguments about the provision of PAS on the grounds of psychiatric illness alone.

Although PAS is illegal in the UK and many other parts of the world, it is currently, or has recently been, permitted in a number of jurisdictions, including Oregon and Washington State in the USA, Australia's Northern Territory, The Netherlands, Switzerland, and Belgium (Box 1). Laws relating to PAS tend to be subject to frequent revision, but these jurisdictions have established histories of implementing measures that support, or at least do not comprehensively prohibit, various forms of PAS.

In the UK, assisting the suicide of another person is illegal. Although the Suicide Act 1961 decriminalized suicide in England and Wales, it stated clearly that assisting suicide carries a jail sentence of up to 14 years. Throughout the 1990s there were a number of attempts to introduce legislation that provided for PAS in the UK, including the Voluntary Euthanasia Bill in 1993, the Assisted Suicide Bill in 1996, and the Doctor Assisted Dying Bill in 1997. None of these legislative initiatives was successfully incorporated into law. Case law, however, suggests that English courts may support the doctrine of 'double-effect', whereby the dosage of pain-relieving drugs is increased for the purpose of pain relief but may also result in shortening the life of a terminally ill patient; this practice, however, remains highly controversial. Further details of the relevant cases, together with a discussion of the legal position of PAS in other jurisdictions, are available from the Ethics section of the British Medical Association (BMA) website (http://www.bma.org.uk/ap.nsf/Content/Hubendoflifeissues).

In 2005, the BMA voted to adopt a neutral stance on proposed changes in criminal law in relation to PAS, but emphasized the need for safeguards for doctors and patients who do not wish to be involved in such procedures.[1] These safeguards could include a 'conscientious objection clause' that would allow doctors to abide by their own principles, in the event that PAS was introduced in the UK. In 2006, however, the UK House of Lords

Brendan D Kelly *MD MA MSc MRCPI MRCPsych is a Consultant Psychiatrist and Senior Lecturer in Psychiatry at University College Dublin and the Mater Misericordiae University Hospital, Dublin, Ireland. His research interests include the aetiology of psychosis and the relationships between mental health and broader societal trends. Conflicts of interest: none declared.*

Declan M McLoughlin *PhD MRCPI MRCPsych is Research Professor of Psychiatry at Trinity College Dublin and St Patrick's Hospital in Dublin, Ireland. His research interests include the molecular pathogenesis of Alzheimer's disease and therapeutic neuromodulation for neuropsychiatric disorders. Conflicts of interest: none declared.*

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Legal position of physician-assisted suicide in various jurisdictions

USA
Under the terms of the Death with Dignity Act, which was passed in 1994 and implemented in 1997, the state of Oregon permits PAS under certain conditions (see Boxes 2 and 3). In November 2008, the 'Washington Initiative 1000' was adopted in Washington, permitting a terminally ill, competent, adult Washington resident who is medically predicted to die within 6 months to request and self-administer lethal medication prescribed by a physician.

Australia
In Australia's Northern Territory, PAS was available from July 1996 until March 1997, provided certain conditions were met, under the Rights of the Terminally Ill Act 1995. In March 1997, this Act was repealed and PAS is no longer legally available in any part of Australia.

The Netherlands
Under certain conditions, PAS may be provided for either physical or psychiatric illness in the Netherlands. It is notable that these conditions do not require the patient to be an adult and do not require that the patient be suffering from a terminal physical illness.

Switzerland
Under Article 114 of the Swiss Penal Code, active euthanasia is illegal, although the motivation of the individual who assists with suicide is taken into account by the courts. If that motivation can be shown to be 'altruistic' (e.g. motivated by mercy), then PAS is not punished under Swiss law.

Belgium
Partial euthanasia is permitted, subject to specific requirements, including the presence of constant, unbearable physical or mental suffering; review by a commission; approval by two doctors; and a requirement that the patient has a long-term history with the doctors involved, resulting in a *de facto* requirement that the patient is a resident of Belgium.

PAS, patient-assisted suicide.

Box 1

rejected the Assisted Dying for the Terminally Ill Bill, which was closely modelled on Oregon's Death with Dignity Act.[2]

Physician-assisted suicide in Oregon

Under the Death with Dignity Act, which was passed in 1994 and implemented in 1997, the state of Oregon permits PAS provided that certain conditions are fulfilled by the patient (Box 2) and by both the prescribing physician and a consulting physician (Box 3).[3] In particular, if either the prescribing or the consulting physician believes the patient's judgement to be impaired as a result of a psychological or psychiatric disorder, the patient must be referred for a psychological examination. Oregon's Death with Dignity Act has aroused considerable controversy since its introduction and continues to be the subject of repeated legal challenges.

Main conditions that must be fulfilled for a patient to request lethal medications under Oregon's Death with Dignity Act

- The patient must be over 18 years of age
- The patient must be a resident of Oregon, USA
- The patient must be capable of making and communicating healthcare decisions
- The patient must have a terminal illness that will result in death within 6 months

Adapted from Oregon Department of Human Services (2005).[3]

Box 2

In 2004, physicians in Oregon wrote prescriptions for lethal doses of medication for 60 patients, and 35 of these died after ingesting the medication; 2 more patients who received prescriptions in 2003 also died in 2004.[3] Although the number of people who used PAS in 2004 ($n = 37$) was slightly lower than the number in 2003 ($n = 42$), the overall trend since implementation of the Act has been for an increasing number of people to avail themselves of PAS in Oregon. Conversely, the proportion of patients requesting PAS who are referred for specialist psychological evaluation beyond that done by a hospice team has declined over that time, falling from 31% in 1998 to 5% in 2004. Between 1988 and 2004, 208 individuals in Oregon availed themselves of PAS.[3] Although equal numbers of men and women used PAS during that time, PAS was strongly associated with younger age and higher levels of education.[3]

Main conditions that must be fulfilled for a physician to meet a patient's request for lethal medications under Oregon's Death with Dignity Act

- The patient must make two oral requests separated by at least 15 days
- The patient must provide a witnessed written request, signed in the presence of two witnesses
- Both the prescribing physician and a consulting physician must confirm that the diagnosis and prognosis are correct
- Both the prescribing physician and a consulting physician must confirm that the patient is 'capable'
- If either physician thinks that the patient's judgement is affected by a psychological or psychiatric disorder, they must be referred for psychological evaluation
- The physician may request the patient to notify their next of kin of the request
- The physician must inform the patient of alternative courses of action (e.g. hospice care)

Adapted from Oregon Department of Human Services (2005).[3]

Box 3

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