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# The Necessary Right of Choice for Physician-Assisted Suicide

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# The Necessary Right of Choice for Physician-Assisted Suicide

## **Abstract**

Research-based paper on the importance of the right for terminally ill patients facing a painful death to be able to choose how they end their life

## **Keywords**

Assisted-Suicide, Maynard, Kevorkian, Terminally-ill

## **Disciplines**

Applied Ethics | Ethics in Religion

## **Comments**

Written for FYS 150: Death and the Meaning of Life.

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Kerry Ullman

Professor Myers, Ph.D.

Death and the Meaning of Life - FYS

30 November 2017

Assisted Suicide

### The Necessary Right of Choice for Physician-Assisted Suicide

Imagine being told you have less than six months left to live. On top of that horrific news, you experience excruciating pain every single day that is far more atrocious than anything you could have possibly imagined. Now imagine being unable to move or perform basic daily tasks, being completely dependent on others, losing your dignity, and facing the terror of contemplating the impending process of a slow and painful death. You have zero control over your life and the pain of grief, stress, and fear coupled with the incredible physical pain you endure day in and day out is more than any human should endure. The option of assisted suicide is one that seems incredibly humane to a person facing this existence. Assisted Suicide, or physician-assisted suicide, is when a terminally ill person takes a prescribed medication to end their life. Assisted suicide is a necessary right of choice for individuals facing terminal diseases as it brings peace to not only themselves but their families when they are dealing with loss of ability, loss of autonomy, and loss of dignity; and this is seen from first hand assisted suicide experiences such as Brittany Maynard, Pam Wald, and Patty Roseman.

Assisted suicide has been a highly debated topic over the last 30 years. Individuals have been on either side of the issue either for or against it, but the Supreme court has consistently ruled against it. In 1997, the United States Supreme Court stated that physician-assisted suicide was against the rights put forth in our constitution. It contrasted with the 14<sup>th</sup> Amendment right

to life, liberty or property (Mariner, 2058). As a result, terminally ill patients and physicians fought against that claim. They argued that liberty in the fourteenth amendment protects individuals who are terminally ill and mentally sound to have the right to choose to end their life with physician-assisted suicide (Batten, 758). In the end, states were still allowed to individually make the decision on the law themselves (Batten, 757). This was because the court agreed that individuals have the right to deny themselves lifesaving treatments if they so wish it and that their lives are too delicate to have others decide if the constitution permits their end of life decisions or not (Hughes, 1).

The individuals opposing assisted suicide support the argument that it is not morally just. Dr. Bill Toffler, a physician from Portland, had a wife who battled cancer in 2009. He strongly asserts that assisted suicide is never the answer. He explained that after his wife was diagnosed with her terminal disease, they vowed to live everyday differently. The awareness of how little time they had left with each other changed their views on life. Toffler shared that the last couple years of her life were the most special to him and he would not give them up for anything. He also explained that the role of a physician is to value their patients no matter what complications they are experiencing. Their job is to show them that their life has meaning. When asked why he would not help his patients who might ask for assistance when it comes to dying, Toffler responded, "I want to walk alongside them. I want to be the best doctor I can be. I'm called more of a doctor than ever. I'm not supposed to be the person who helps her to kill herself. That's all too easy." ("After Brittany Maynard, Right-to-Die Movement Find New Life beyond Oregon"). Dr. Toffler is saying that he prefers to attack the challenge and keep on fighting instead of taking the easy way out, which is assisting in death. ("After Brittany Maynard, Right-to-Die Movement Find New Life beyond Oregon"). The American Medical Association is also against assisted

suicide and they believe that, “Physician-assisted suicide is fundamentally incompatible with the physician’s role as healer” (“After Brittany Maynard, Right-to-Die Movement Find New Life beyond Oregon”). The AMA believes that assisted-suicide goes against the role that physicians are supposed to follow the oath that they take when they become healers.

Thomas Lynch also touches on assisted suicide in his book, *The Undertaking*. In the following quote, Lynch compares assisted suicide to other causations of pain and asks the question if they also have the right to die as well,

“Why only the terminally ill? If there is a right to die, a right to death with dignity, a right to be free of meaningless existence, free of pain and torment and tortuous hurt, then who gets to say that right belongs to some of the citizenry and not to all of it. Why not alcoholics? Why not the adult children of alcoholics? Why not the teenage grandchildren of alcoholics? Why not victims of sexual abuse or spousal abuse, or broken marriages or broken hearts or tax audits? Is their pain not real? Is their torment unworthy? Is there someone in the court or the Congress of the church who has the say about which painful case is painful enough? Do we treat terminal people or terminal parts?” (Lynch, 171).

Lynch fails to understand the strict criteria set in place for authorization of physician-assisted suicide. The physical and mental pain endured from a terminal illness is drastically different than pain due to an addiction or depression. With addictions and depression there are countless options for help and treatment of the underlying issue. Terminal illnesses have no treatment options and inevitable pain and death are imminent. If there was any hope or chance of options to cure the illness then the individual would not even be considered a candidate for physician-assisted suicide.

Although Dr. Bill Toffler and the American Medical Association provide intellectual statements against the issue, there is more to this issue than a patient going to their doctor and asking for help to end their life. According to Oregon’s Death with Dignity Act, there are certain stringent criteria that a patient needs to meet before they can even request an assisted suicide. A patient is eligible when they are at least eighteen years old, they have a confirmed physician’s

diagnosis that they are battling a terminal illness, and they have fewer than six months left to live. After that, the patient has to make two verbal (fifteen days apart from each other) and one written request. The requests have to be voluntary, excluding influence from others. The patient also has to be in the right state of mind. They need to rule out depression or other psychiatric problems. And lastly, two physicians need to sign off approving that the patient fits all the criteria (Batten, 759). The stringent criteria counter the popular argument that assisted suicide is suicide. The two forms of death are very different and this can be seen in the following quote (from People Magazine on October 6<sup>th</sup>, 2014) from Brittany Maynard, a patient who died from assisted suicide in 2014, “There is not a cell in my body that is suicidal or that wants to die. I want to live. I wish there was a cure for my disease but there is not.” (Griggs).

Brittany Maynard was a 29-year-old, newlywed wife who experienced horrific headaches. (“After Brittany Maynard, Right-to-Die Movement Find New Life beyond Oregon”). After being tested, Brittany was diagnosed with glioblastoma multiforme, brain cancer (“The Brittany Maynard Fund”). Glioblastoma is an extremely aggressive and fatal form of cancer. It is known for rapidly spreading and growing all over the brain (“Glioblastoma Multiforme”). Brittany underwent two major surgeries, a partial craniotomy and a partial resection of her temporal lobe, but her tumor came back and this time it was even more aggressive (Maynard). Brittany originally was told that she had three to five years to live, but following a post-surgery MRI the doctors informed her that she had only six months left to live. This news devastated her and made her realize that she did not have a lot of time left. Her parents frantically searched for alternative treatments or chances of a positive outcome. They did not want to believe that their daughter was terminally ill (“The Brittany Maynard Fund”). Brittany then looked into hospice

care in California, where she lived at the time; but she was so distraught at what she saw and what she would be facing as she ended her life (“Brittany Maynard’s Legacy: One Year Later”).

Brittany went through various cancer treatments and major surgeries and nothing was working for her. That is when reality hit that there was no cure (Coombs, 39). Brittany wrote, “After months of research, my family and I reached a heartbreaking conclusion: There is no treatment that would save my life, and the recommended treatments would have destroyed the time I had left.” (Maynard). Brittany and her family ultimately packed up and moved to Oregon. She fit all the requirements for the prescription for physician-assisted suicide and she decided that was how she wanted to end her life. Her mother said she wanted her daughter to live her life how she wanted to, to make the decisions she wanted to, and be who she wanted to be. Brittany was approved for the lethal medication and kept it in a safe spot where she did not have to look at it every day (“The Brittany Maynard Fund”). Brittany did not want to die, but she wanted to be at peace. It was hard to live the life she was facing. She was in a tremendous amount of pain, suffered seizures regularly, and even had trouble remembering her husband’s name. It was not her ideal life (“Brittany Maynard: I Don’t Want to Die”).

Brittany had control over when she took the drug, where she was, and who she was with. Just having the power gave her so much relief (“The Brittany Maynard Fund”). With the Death with Dignity law the patient has total control over the self-administered medicine. Not everyone who is approved and has access to the medicine ends up taking it. It is a personal option for them to ultimately decide on (“Explaining ‘Death with Dignity’ Law”). In 2017 1,749 people had received the drug and only 1,127 people actually used it (“Physician-Assisted Suicide Fast Facts”).

Brittany Maynard planned on taking the lethal drug in her bedroom at home surrounded by her husband, mother, and loved ones. She wanted to die peacefully with her favorite music playing in the background (“The Brittany Maynard Fund”). Brittany drank the medicine and she passed away peacefully thirty minutes later (Coombs, 40). Physician-assisted suicide provided her relief from her physical and psychological suffering. She knew she would not be a further burden to the people who cared for her. She would be able to die the peaceful way she wanted to and not in a horrific way she would have if she waited for the brain cancer to do its gruesome job. Dan, Brittany’s Husband, said in a video when talking about her physician assisted suicide, “It allows those people suffering to decide when enough is enough” (“The Brittany Maynard Fund”). Dan is saying that since there is no other destination but death, the ability to take the lethal drug takes a lot of stress off their shoulders so they can just enjoy the time they have and decide to pass on when they have had enough. With two months left to live, Brittany spent a majority of her time with her loved ones traveling and setting little goals such as visiting the Grand Canyon. Brittany said, “The little goals make each day worthwhile” (“The Brittany Maynard Fund”). In contrasting Dr. Bill Toffler’s wife’s experience of suffering as she died with Brittany’s, you can see that Brittany chose to enjoy as much of her life as she could and minimize her pain and suffering before she ended her life peacefully. Brittany wanted to stress that life is worth living when there is value, and with her case she was already missing out on things she cared about and what was important to her (“The Brittany Maynard Fund”).

Brittany shared her story with the world in a video on Compassion Choices website, which is a website in support of physician-assisted suicide. She wanted death with dignity to be viewed in a positive way and for the public to really understand what it is and why people should have the right to choose that route (“Brittany Maynard’s Legacy: One Year Later”). After



Brittany's death, many states reconsidered physician-assisted suicide such as Montana, New Mexico, California, New York and even Canada ("After Brittany Maynard, Right-to-Die Movement Find New Life beyond Oregon"). The public connected with Brittany given how young and personable she was and this prompted tremendous compassion and understanding for her decision. An individual viewer, Pam Wald, who had a loved one who suffered from a terminal illness said, "I looked at that video. Especially the last time I saw that video, I don't think I left her eyes" ("After Brittany Maynard, Right-to-Die Movement Find New Life beyond Oregon"). As of 2017, there are now seven states that have authorized physician-assisted suicide: Oregon, Vermont, Washington, California, Colorado, District of Columbia, and Montana ("Physician-Assisted Suicide Fast Facts"). When the Californian governor was deciding to sign the bill he reflected on his own death. He wrote in a letter to members of the State Assembly, "I do not know what I would do if I were dying in prolonged and excruciating pain. I am certain, however, that it would be a comfort to be able to consider the options afforded by this bill" (Botelho). Brittany Maynard's story also resonated with the aforementioned Pam Wald who found herself in a similar situation in 2012.

Pam Wald, a resident in Oregon, originally voted for the bill to pass in 1994. She was in support of it with little knowledge on what it entailed. Pam felt that people deserved the right to choose how they died, but little did she know that she would be faced with this situation first hand. In 2011, Pam's husband was diagnosed with cancer which was taking a tremendous toll on him. The pain he was enduring had become so intolerable that he would wake Pam up in the middle of the night and say he did not want to keep living his life in this nature. He wanted to pursue death with dignity. He and Pam explored his options and found Compassion Choices, the same organization that helped Brittany Maynard. Compassion Choices helped set them up with

physicians and they were approved and provided with the lethal medication (“After Brittany Maynard, Right-to-Die Movement Find New Life beyond Oregon”).

Pam, her husband, and their closest friends and family came together and enjoyed his last few hours singing songs in their living room. After that, he crossed his hands peacefully over his chest as he laid on their bed waiting for Pam to hand him the medication. Pam noted that this was an incredibly important sign to her because with all the stress and anxiety he had experienced due to his illness, his hands were always moving and fidgeting, and now they were relaxed. Pam witnessed first-hand the peace and comfort that assisted suicide brings to those suffering. His very last words were “Thank You.” This affirmed to her how positive the experience was and how much having the choice to die on his terms really meant to him. Pam explained how death is not an easy topic and is one that society does not like to talk about. She said that when it comes to physician-assisted suicide it becomes an act of love (“After Brittany Maynard, Right-to-Die Movement Find New Life beyond Oregon”). Similar to the experience of Pam Wald and her husband, Patty Rosman also had to deal with a loved one facing a painful terminal illness.

Patty Rosman had a daughter, Jody, who experienced severe back pain that was unexplainable. A diagnosis was elusive after multiple doctor visits and tests. The doctors believed that her daughter suffered only from a drug problem, but Patty knew this was not an accurate assessment. Patty took her daughter to San Diego where she underwent additional tests and she found out that she had bone cancer. As the disease progressed Jody became severely sick and in constant excruciating pain. She would never be able to leave her bed because all of her bones were affected and were deteriorating. Patty went on to explain how Jody would miss out on all her favorite aspects of life such as going to her favorite restaurants, the movies, make love, and have her own children. In essence, her future would hold no dreams but only nightmares.

Jody asked her mother, who was a nurse practitioner, to help her die peacefully. Patty had access to lethal drugs and she was able to get some for her daughter. As Patty sat beside Judy on her deathbed Judy looked at Patty and asked her to promise to work for the rights of the terminally ill because no mother should have to experience anything similar to this. Patty said that her act of assisting her daughter's death was an act of love because she was freeing Jody from her personal prison to where there was no pain. She encourages people to honor their loved ones and support death with dignity ("I Assisted My Daughter's Death").

Before Brittany, Pam or Jody, there was Jack! Dr. Jack Kevorkian, also known as "Dr. Death," played a major role in promoting physician-assisted suicide. Dr. Kevorkian assisted in more than 130 suicides in the 1990s by the use of the machine that he invented specifically for this purpose (Batten, 757). His invention first releases a drug that makes the patient unconscious and then releases a deadly amount of potassium chloride. Once the potassium chloride circulates to the heart it will cause it to shut down resulting in a heart attack while the patient is in a coma. This mimics the patient dying in their sleep. Dr. Kevorkian's first patient was Janet Adkins, 54 years old, who suffered from a horrible case of Alzheimer's. Dr. Kevorkian said in an interview, with the News Hour's Robert MacNeil on June 6, 1990, that he came to the conclusion that she was eligible for physician-assisted suicide because of her,

"medical reports that were submitted to me from Oregon. The diagnosis was 90% sure Alzheimer's and of course that is a clinical diagnosis. And then I called her own physician who supervised her last experimental treatment course with THA, and he verified everything that was in the records. And then when I met her personally, I spent all day Saturday with her, her husband, and best friend, and from what I could see she was having a terrible loss of memory, having trouble spelling, and printing her own initials. She even had trouble reading because of the memory loss, but she was rational. She knew where she was, who I was, knew the time and the place. I concluded then that I had to go along with her wishes based on what I could see and determine." (MacNeil) Janet wanted to end her life and spoke about it multiple times with her husband and children. Her death occurred in a park inside Kevorkian's van, where he later called the police from to

announce her death. After Adkins death, Kevorkian was faced with possible criminal charges.

His response to this follows,

“If I’m a criminal then, then you can look at me and say, ‘you’re a criminal’ and then throw me in jail. But keep me there because if I get out I’ll do it again. I want this to be a medical service that can be controlled. Now it’s all hit or miss. People are shooting each other, suffocating each other, poisoning each other, and drowning each other. What? That’s silly! How can doctors stand by and watch that?” (MacNeil).

Dr. Kevorkian is saying that instead of having patients hurting themselves in the attempt to put themselves out of their misery, physicians need to step in and help the patients reach peace in a controlled, safe environment.

Dr. Jack Kevorkian’s golden rule in ethics is personal autonomy and that is the capacity to decide for oneself a course of action. He believes this desire must be approved by physicians who use their knowledge of medicine, common sense, and unbiased opinion. If the physician believes it is right and just to proceed with the wish of their patient then it is their job as a doctor to offer that option (MacNeil). When Dr. Kevorkian first invented his machines, Michigan, where he resided, had no law against physician-assisted suicide. It was not until 1994, after Kevorkian became more well known, that the Michigan Supreme Court claimed physician-assisted suicide as unconstitutional. In the end, Kevorkian was found guilty of second-degree murder and had his medical license countermanded. He was later released in 2007 after he had served ten years of his sentence (Batten, 757). Kevorkian went against both the critics and the law for what he believed was ethically right. He also pioneered and made huge advancements in physician-assisted suicide paving the way for Brittany, Pam’s husband, and Judy to reach their Nirvana.

There are three main losses in terminally ill people that drive them to make the final decision of physician-assisted suicide: loss of ability, loss of autonomy, and loss of dignity. All three of these things are very important in a person’s life, especially one with value. Ability is

being able to participate in the enjoyable activities that life has to offer. Jody's bone cancer robbed her of that ability. She would not have been able to live out her life the way she wanted to. She was bedridden and in constant pain. Autonomy is self-control in life. Brittany's aggressive brain cancer was only going to end painfully after exhausting all other options for treatment. No cure was going to happen so she took control and made the decision to end her life with peace. Dignity is a state of worth, pride, and honor and Brittany, Jody, and Pam's Husband all experienced a loss of dignity over the course of battling debilitating illnesses. They were all at a point where they felt their life did not have value. Their illnesses were incurable and they were counting down their limited agonizing days until a tortuous death.

Physician-assisted suicide was their salvation. For Brittany, she was able to experience some things in life she always wanted to and was able to let go when it was her time. And the beauty of it all was that she had the power to decide when that would be and how much suffering she could endure. It was the one thing in her life that Brittany had control over. It gave back a sense of ability, autonomy, and dignity that her illness had taken away from her. Physician-assisted suicide is a right that is absolutely essential for individuals faced with an imminent and painful death. A terminal illness dehumanizes an individual and takes away their quality of life. Quality of life is more important and valuable than the quantity of life. Loss of ability, loss of autonomy, and loss of dignity are critical in measuring the quality of one's life. If death is imminent and severe suffering both physically and psychologically is given, then we should at least have control over whether we choose to die peacefully and under our own terms.

#### Honor Code

I affirm that I have upheld the highest principles of honesty and integrity in my academic work and have no witnesses a violation of the Honor Code – Kerry Ullman 11/30/17

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