

## Older Womens League, OWL SF 1-5-15

---

### **Presentation to Older Womens League (OWL), San Francisco**

**Marilyn Golden  
Senior Policy Analyst, Disability Rights  
Education & Defense Fund**

Thank you.

Let me start with two key points:

1. If you only consider the wishes of a single individual, assisted suicide laws looks OK – but we must look broadly across society; at all the people who stand to be harmed. And there are many! More on this shortly.
2. If assisted suicide is legal, some people’s lives will be ended without their consent, through mistakes and abuse. No safeguards have ever been enacted or even proposed, that can prevent this outcome, which can never be undone.

### **Pain**

I understand your major concern about wanting an assisted suicide law is pain at the end of life. It’s important to understand that where assisted suicide is legal, its use is rarely, if ever, for reasons of current pain.

Eminent psychiatrist Gregory Hamilton of Oregon wrote “Not one case of assisted suicide has been documented as resulting from actual untreatable pain.”

Moreover, for anyone dying in discomfort, even if palliative care (that is, aggressive pain treatment), is inadequate, something else called palliative sedation is legal in all 50 states, providing comfort from pain at the time of death. The patient is sedated to the point where the discomfort is relieved while the dying process takes place. So, there is a legal solution to any remaining painful and uncomfortable deaths; one that does not raise the very serious dangers of legalizing assisted suicide.

### **Dangers, and the choice issue**

What are these dangers? The answer involves what I understand to be another of your key concerns – your sense that an assisted suicide law would increase choice and self-determination.

### **Writings of Margaret Dore**

Margaret Dore, an elder law attorney from Washington state, writes about how elder abuse is a rising problem. If assisted suicide is legal, heirs or abusive caregivers may steer someone towards assisted suicide, witness the request, pick up the lethal dose, and even give the drug -- no witnesses are required at the death, so who would know?

Once the lethal dose is issued by the pharmacy, there is no oversight. The death is not required to be witnessed by disinterested persons. Indeed, no one is required to be present. If someone else puts the lethal dose in a feeding tube or IV nutrition bag, the patient's request for lethal drugs provides an alibi.

By signing the [assisted suicide] form, the [patient] is taking an official position that if he dies suddenly, no questions should be asked. The [patient] will be unprotected against others in the event he changes his mind after the lethal prescription is filled and decides that he wants to live.

There are so many dangers from legalizing assisted suicide. If you look only at an individual who wants it, including some of you who project maybe wanting it some day, *not* from coercion or abuse, then it looks OK. But for every such person, there may be 10 or 100 cases of dangerous abuse against people in *unhappy* families, *without* wherewithal, resources and control.

### **Managed care and assisted suicide a deadly mix**

There's a deadly mix between our profit-driven health care system and legalizing assisted suicide, which will be the cheapest so-called treatment. Will insurers do the right thing, or the cheap thing?

Direct coercion is not even necessary. In insurers deny, or even merely delay, expensive live-saving treatment, the person will be steered toward assisted suicide.

In such circumstances, assisted suicide is a phony form of freedom.

### **Thomas Middleton**

And there's economic abuse – take the case of Thomas Middleton.

The perpetrator, named Tami Sawyer, was indicted for criminal mistreatment and aggravated theft regarding Thomas Middleton. Oregon officials found that Tami Sawyer took custody of Middleton for the purpose of fraud. He'd had been diagnosed with a terminal illness, moved into Sawyer's home in July 2008, and died by assisted-suicide later that very *month*.

Middleton had named Sawyer trustee of his estate, and documented that the home be rented until the real estate market improved.

Instead, Sawyer listed the property for sale two days after Middleton's death. When the home sold, the proceeds were deposited into the accounts of Sawyer's businesses.

In Oregon, there is no investigation of assisted-suicide deaths, even with suspicious circumstances such as these.

## **Supposed Safeguards**

I understand it's your sense that there are strong safeguards in the Oregon model. The vaunted safeguards actually amount to very little, and are easily gotten around.

### **Doctor-shopping**

Shopping for another doctor can get around any so-called safeguards. Take the example of Kate Cheney, an elderly woman with cancer whose doctor said "no" to her request for lethal drugs due to her increasing dementia, and concern about pressure from Cheney's adult daughter. But the family found another doctor and Kate Cheney soon died.

### **Six months to live**

Another supposed safeguard is that you're not eligible for assisted suicide unless you have only 6 months to live. But it is extremely common for medical prognoses of a short life expectancy to be wrong. The disability community is full of people who were diagnosed to die in 6 months, decades ago. These people are still alive, happy, and running families, or organizations, or entire movements. They are

glad assisted suicide wasn't legal when they were diagnosed as terminal, because they might have used it, and missed out on everything since.

When a person is ill and vulnerable, they can make a bad choice to avoid suffering that actually would never have occurred – a choice that is irrevocable.

## **Family pressures**

And nothing in the law will protect patients when there are family pressures, whether financial or emotional, which distort patient choice.

## **Oregon – Minimal Data and Absence of Oversight**

Oregon's annual reports on their assisted suicide statistics, highly praised by proponents as informative, actually tell us very little. In reality, we don't know what is happening under the Oregon law.

- A. **Reporting requirement lacks teeth.** Doctors who fail to report to the state that they prescribed lethal drugs, face no penalty. Though reporting is required on paper, no investigations take place to ensure the reports are made.
- B. **Non-compliance is not monitored.** The Oregon Public Health Division (OPHD) does not monitor underreporting, noncompliance, violations, nor do they investigate abuse. Some of Oregon's reports clearly acknowledge that the State cannot confirm compliance with the law.
- C. **Important questions go unasked.** For example, the State does not talk to doctors who **denied** requests to prescribe lethal drugs for patients, nor to families. These doctors who first said "no" may have viewed the patients as not meeting legal requirements, important information if one wishes to evaluate the law's outcomes. **Nor** does the state talk to families.
- D. **No investigation of abuse.** The State has no resources or even authority to investigate violations. All the abuses we've discussed, such as Thomas Middleton and Kate Cheney, and

Wendy Melcher, only the media have brought them to light—not an oversight body whose job it should be.

- E. **No autopsies.** Autopsies are not required, opening the door to another Dr. Kevorkian, most of whose victims were **not** terminally ill
  
- F. **Underlying data is destroyed annually.** Most egregious of all, the State of Oregon has acknowledged that after each annual report is published, the underlying data is destroyed, so no outside party can conduct objective research. Now, that is not required by their law—but for whatever reason, they've admitted they do it.

Doctor-prescribed suicide is practiced in Oregon in secret and without oversight. In this lax context, we must assume that any abuses that come to light are the tip of the iceberg.

We urge you to oppose the legalization of assisted suicide.