

Making the Case Against Physician-Assisted Suicide

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Physician-assisted suicide in the United States and elsewhere remains a hotly debated and contentious bioethical issue. Supporters of physician-assisted suicide usually take the philosophical position that respect for patient autonomy and individual self-determination trumps all other ethical principles. That is, when ethical doctrines come to clash, as with the principle of respect for patient autonomy coming into conflict with the sanctity of human life, it is argued that patient autonomy should triumph. Proponents of this position thus argue that it is an individual's right as an autonomous being to choose when, where, and how to die, as long as he or she is a competent adult. In addition, some philosophers suggest that a "right to die" is guaranteed under a (US) constitutional "right to privacy" (for instance, via the "liberty" guarantee of the Fourteenth Amendment) which would forbid the government from interfering in private decisions, such as whether to marry, whether to have children, whether use contraception or when to die [1].

Sometimes it can be helpful to consider a real case upon which to deliberate. In a Frontline Film presentation entitled *Choosing Death* (first aired March 23, 1993; <http://www.imdb.com/title/tt1161520/>), Hank Dykma is requesting physician assistance in dying to avoid suffering from the ravages of AIDS. Hank is apparently invoking his right to autonomy and self-determination to ensure that a planned and peaceful death takes place in circumstances that he has control over. In doing so he is effectively arguing that he places more importance on the quality of his life than he does on life itself. What makes this case rather unusual is that Hank is at a relatively early stage of AIDS and according to his doctor may be able to stay in a more or less in a healthy state for quite some time with AZT treatment (see 2:31 in the video). However, Hank has decided not to take the life-prolonging medication, apparently concerned about side-effects. The doctor later describes Hank as a "difficult patient". At 12:55 in the video we learn that one of the participating doctors will be asking an anesthetist to "prepare a cocktail of various drugs". Symbolically, the doctor tells us that he will be taking off his white coat for the process. On July 28, 1992, apparently still in relatively good health, Hank swallows the potion and dies peacefully. No doubt, many AIDS patients would argue that Hank gave up way too readily. I happen to agree.

In contrast to supporters of physician-assisted suicide, euthanasia opponents often hold that human life is of supreme value in and of itself, and this principle trumps all other considerations and principles [2]. However, influenced by the writings of Peter Singer [e.g., 3,4] and similarly-minded scholars, many thinkers no longer take the view that the sanctity of human life is always paramount. Still others have a number of specific concerns about physician-assisted suicide that make them uncomfortable with what happened to Hank. Let's look at some of these.

First, as with Hank, it is likely that patients with painful terminal disease will sometimes express a desire to hasten their death. However, physicians may sometimes find it difficult to determine exactly why such statements are made since they may be "a request for hastened death, a sign of psychosocial distress, or merely a passing comment that is not intended to be heard literally as a death wish" [5]. Special care is needed to tell these apart.

Another concern is that "while clinical depression influences requests for hastened death in terminally ill patients, it is often under-recognized or dismissed by doctors, some of whom proceed with assisted death anyway" [6]. It has also been argued (perhaps somewhat obtusely) that "coercion and unconscious motivations on the part of patients and doctors in the form of transference and countertransference contribute to the misapplication of physician-assisted suicide" [6].

Some critics have expressed concerns about how carefully any such program would be monitored. For instance, Hendin and Foley [7] argue that "seemingly reasonable safeguards for the care and protection of terminally ill patients written into the Oregon law are being circumvented" since the Oregon Public Health Division, which is charged with monitoring the law, "does not collect the information it would need to effectively monitor the law." The authors further add that in its actions and publications the agency "acts as the defender of the law rather than as the protector of the welfare of terminally ill patients." In addition, as noted by Walker [8], while ordinarily physicians participating in suicide can prescribe lethal amounts of medication only if requested by competent, terminally ill patients "the possibility of extending the practice to patients who lack decisional capacity" remains at least a theoretical concern.

These critics are hardly alone in voicing unease. For instance, Lee et al. [9] conducted a postal survey of 1000 British physicians. The authors found that “39% were in favour of a change to the law to allow assisted suicide, 49% opposed a change and 12% neither agreed nor disagreed.”

Finally, most physicians remain profoundly influenced by the traditions of the medical profession and the Hippocratic teaching that a physician should give no deadly preparation to anyone. One concern is that for a doctor to assist in killing a patient risks rendering damage to patient-doctor trust as well as damaging the image of the medical profession. Thus even if a physician felt that Hank Dykma was well within his rights to be granted his request for assistance, they would likely not want to be the physician assisting in his suicide.

In fact, the case can be made that there is no need for physicians to be involved in suicide support activities at all. For instance, the Web site www.finalexit.org offers a variety of potentially helpful resources, including a downloadable digital edition of Derek Humphry's controversial book *Final Exit* (at a cost of \$17). This book provides information on suicide drugs and their dosages as well as important legal information. One simple and reliable technique discussed in detail is death by helium inhalation. This procedure involves placing a plastic over one's head with helium gas from a tank entering the bag through a tube. Death occurs from oxygen deprivation. One potential advantage of this technique is that helium is hard to detect in toxicological studies, which is potentially important for anyone assisting because of the potential for criminal charges. It is also very easy to acquire - a suitable tank of helium costs \$49.99 plus shipping at www.buycostumes.com.

In *Vacco v. Quill*, 117 S.Ct. 2293 (1997) and *Washington v. Glucksberg*, 117 S.Ct. 2258 (1997) the U.S. Supreme Court has ruled that individuals have no constitutional right to physician-assisted suicide [10]. Instead, the court endorsed the intensive use of palliative care techniques as an alternative [11]. This position is in stark contrast to that in the Netherlands, where The Dutch Euthanasia Act (2002) states that euthanasia “is not punishable if the attending physician acts in accordance with the statutory due care criteria”. These criteria are: “there should be a voluntary and well-considered request, the patient's suffering should be unbearable and hopeless, the patient should be informed about their situation, there are no reasonable alternatives, an independent physician should be consulted, and the method should be medically and technically appropriate” [12, 13]. (Of interest, despite apparently capable physicians being involved in these Dutch suicides, they are often clumsily executed, with 32% of cases experiencing complications (“12% time to death longer than

expected (45min – 14 days), 9% with problems administering the required drugs, 9% with a physical symptom (e.g. nausea, vomiting, myoclonus) and 2% waking from coma.”)[14].

To finally return back to Hank’s assisted suicide, I am of the view that while Hank may be within his rights to seek suicide assistance based on concerns for his autonomy, for the numerous reasons stated above, I think that this help should not be from the medical profession.

References and Notes

[1] A frequently quoted statement by a US Supreme Court justice on the topic of privacy is in Justice Brandeis's dissent in *Olmstead v. U. S.* (1928): "The makers of our Constitution understood the need to secure conditions favorable to the pursuit of happiness, and the protections guaranteed by this are much broader in scope, and include the right to life and an inviolate personality -- the right to be left alone -- the most comprehensive of rights and the right most valued by civilized men. The principle underlying the Fourth and Fifth Amendments is protection against invasions of the sanctities of a man's home and privacies of life. This is a recognition of the significance of man's spiritual nature, his feelings, and his intellect."

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