



The Case for Medical Aid in Dying for the Terminally Ill in New York

Introduction

Life is precious, but it ends eventually for all of us, including about 150,000 New Yorkers each year. No dying person should have to endure more suffering than he or she is willing to endure. Every dying person who is mentally competent should have the right to die, if possible, in a way that she or he decides and controls, consistent with his or her values and beliefs. For those who are dying the issue is not whether they will die, but instead how they are going to die and who makes the decision. Medical Aid in dying should be an available option. It occurs when a terminally ill, mentally competent adult patient, who is likely to die within six months, takes prescribed medicines, which must be self-administered, to end suffering and achieve a peaceful death.

Dying patients with mental capacity have a legally recognized right to end their suffering by having life sustaining treatment withheld or withdrawn, such as a feeding tube, ventilator, or dialysis. Patients also may voluntarily stop eating and drinking. Another option which hastens death is palliative sedation. It is appropriate for patients who have uncontrollable symptoms. Health care agents can and often do make decisions, in accordance with the wishes of patients, to hasten the deaths of patients. Aid in dying is another reasonable end-of-life option, a better choice for some terminally ill patients. Efforts are now being made to establish medical aid in dying as a clearly defined right in New York. (See below.)

It is well documented that medical aid in dying occurs throughout the country, but in states other than Oregon, Washington, California, Vermont, Montana, and Colorado, the District of Columbia, and Hawaii (as of 2019) where it is legal, it is done underground, is unregulated and may not be legal. The practice should be legal, above ground and reasonably regulated. Physicians and family members should not be at risk of punishment.

Medical aid in dying is not assisted suicide

It is not a question of whether but rather how the patient will die. Terminally ill patients who consume life ending medicines are not suicidal. Stark differences exist. Suicides are committed by those who can continue to live, but choose not to; are done in isolation, often impulsively and violently; and are tragic. To the contrary, medical aid in dying is available only to terminally ill patients who will soon die; the process usually takes at least several weeks; it occurs almost always after consultation with and support of family and physicians; and it is empowering. The term "assisted suicide" is rejected by the American Public Health Association, American Academy of Hospice and Palliative Medicine, the American Medical Women's Association, and the American Psychological Association, among others, and in the state laws which permit aid in dying. And, in 2017 the American Association of Suicidology issued this statement: "Suicide is not the same as physician aid in dying".
<http://www.suicidology.org/Portals/14/docs/Press%20Release/AAS%20PAD%20Statement%20Approved%2010.30.17%20ed%2010-30-17.pdf>

The laws allowing medical aid in dying have worked as intended

There is now a large body of evidence, compiled over almost three decades from Oregon and Washington, which demonstrates that medical aid in dying causes no harm and is beneficial to patients and families. No problems have emerged as expected by opponents.

Medical aid in dying is rarely used; only about one in three hundred deaths occur in this manner in states where the practice is legal, and about one third of patients who obtain the medications do not take them. However, dying patients are comforted knowing that this option is available.

- There is no evidence of disproportionate impact on vulnerable populations. (See “Legal physician-assisted dying in Oregon and the Netherlands: evidence concerning the impact on patients in “vulnerable groups”, *Journal of Medical Ethics* 2007; 33;591–597.) Nor is there any evidence of any coercion or abuse. With regard to those with disabilities, consider, particularly a letter from the Executive Director of Disabilities Rights Oregon in 2016 where he categorically states that “DRO has not received a complaint of exploitation or coercion of an individual with disabilities in the use of Oregon’s Death with Dignity Act” (letter dated Feb. 10, 2016)
- There is evidence that family members of those who request medical aid in dying feel better prepared and accepting of the death, and that there are no negative effects. (See “Mental Health Outcomes of Family Members of Oregonians Who Request Physician Aid in Dying”, *Journal of Pain and Symptom Management*, Volume 38, Issue 6 (2009);807-815.)
- There is also evidence that deaths by medical aid in dying are at least as good, and in some cases better deaths than others. (See “Quality of Death and Dying in Patients who Request Physician-Assisted Death”, *Journal of Palliative Medicine*, Volume 14, Number 4 (2011);445-450).
- About 90% of those who end their lives by using aid in dying are receiving hospice care (which means that even hospice can’t meet all the needs of all dying patients); almost all have health insurance, and most are college educated. (See <https://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Documents/year19.pdf>).
- There is no evidence of any slippery slope. Medical aid in dying is only for the terminally ill, and only for the mentally competent who can clearly express their wishes.
- A comprehensive cancer center in Seattle which implemented a program for patients to access medical aid in dying found that “Overall, our Death with Dignity program has been well accepted by patients and clinicians”.

Support for aid in dying is substantial and growing

77% of New Yorkers either definitely or would probably support medical aid in dying according to a 2015 poll, including majorities of Democrats, Republicans, and Conservatives, as well as Catholics. Only 15 % are definitely or probably opposed. Physicians support medical aid in dying by an almost 2 to 1 margin, 57% to 29% per a 2016 Medscape poll.

New York Effort to Establish Aid in Dying

Legislative efforts initiated by EOLCNY began in New York in 2015 to secure medical aid in dying as a right. A. 2383-A and S. 3151-A, the Medical Aid in Dying Act, is a comprehensive bill with numerous safeguards and protections.

Conclusion

Medical aid in dying should be a legally recognized right for mentally competent, terminally ill adult patients. It is a matter of personal liberty, autonomy, and the right of a dying person to control the timing and circumstances of his or her death. There are no arguments which justify denying this right.

Support medical aid in dying

Get involved with End of Life Choices New York. Send an email to info@endoflifechoicesny.org with your contact information to sign up to be on our mailing list or call 212 726 2010. We will update you on new developments and our activities. Send your legislators a letter of support. For a sample letter and to easily send the letter go to <https://ujoin.co/campaigns/471/actions/public>