

OREGON'S PHYSICIAN-ASSISTED SUICIDE LAW

Abused and Exploited

{CASE IN POINT: KATE CHENEY}

Kate Cheney, 85, had terminal cancer and told her doctor she wanted assisted suicide. Concerned that she didn't meet the required criteria for mental competence because of dementia, he declined to write the requested prescription and instead referred her to a psychiatrist as required by law. She was accompanied to the psychiatric consultation by her daughter. The psychiatrist found that Kate had a loss of short-term memory. It also appeared that her daughter had more interest in Cheney's assisted suicide than did the patient herself.

The psychiatrist wrote in his report that while the assisted suicide seemed consistent with Kate's values, "she does not seem to be explicitly pushing for this." He also determined that Kate did not have the "very high capacity required to weigh options about assisted suicide," and he declined to authorize the lethal prescription. Kate seemed to accept the psychiatrist's verdict, but her daughter did not.

Her daughter viewed the guidelines protecting her mother's life as obstacles, telling a reporter that they were a roadblock to Kate's right to die. Finally, another evaluation was done by a managed care ethicist at Kate's HMO, Kaiser Permanente. He determined that Kate was capable of making the decision to end her life and approved the writing of the lethal prescription.

Sometime later, Kate went into a nursing home for a week so that her family could have some respite from care giving. After she returned home, she declared her desire to take the pills.

The safeguards failed Kate Cheney:

- It is possible to circumvent the safeguards by "shopping" for an agreeable professional to write the lethal prescription.
- By giving the interview, the patient's daughter unintentionally revealed that the law does not adequately protect patients with diminished capacity from family coercion.
- Did financial considerations influence the HMO ethicist's decision to find Kate Cheney capable of making a request for assisted suicide?

OREGON'S PHYSICIAN-ASSISTED SUICIDE LAW

How well is it REALLY working?

"Death with Dignity" supporters in Vermont would like to convince us that physician-assisted suicide is safe from abuses or exploitations because it is supposedly going well in Oregon. But, consider the following:

While Oregon's Physician-Assisted Suicide law mandates that all physicians who participate in assisted suicide deaths report each case to the state, the law does not penalize doctors who fail to do so, and the Oregon Health Division has no authority to enforce the reporting requirement.

Consequently, there is no way to know the exact number of deaths and the actual circumstances prompting a patient to request assisted-suicide. **And, since there is no requirement that a physician be present when the lethal dose is taken, there is no evidence to show that when patients actually take the lethal dose they are competent, free from coercion, and have actually self-administered the drug.**

OHD acknowledged early on that it is "difficult, if not impossible, to detect accurately and comment on underreporting." They further state, **"We cannot determine whether physician-assisted suicide is being practiced outside the framework of the [law]."** [Chin et al., "Legalized Physician-Assisted Suicide in Oregon-The First Year's Experience," *NEJM*, 2/18/99]

The Oregon Health Division can only report data that is reported voluntarily to them. They have no authority or resources to look for abuses.

Read about Kate Cheney here:

Erin Barnett, "A family struggle: Is Mom capable of choosing to die?" *Oregonian*, October 17, 1999; Herbert Hendin and Kathleen Foley, "Physician-Assisted Suicide in Oregon: A Medical Perspective," *Michigan Law Review*, Vol. 106: 1613 (June 2008), p. 1624. <http://www.michiganlawreview.org/assets/pdfs/106/8/hendinfoley.pdf>