



11350 Random Hills Road, Suite 800, Fairfax, Virginia 22030 Phone (703) 934-6101 Fax (703) 352-3678

[fff@fff.org](mailto:fff@fff.org) [www.fff.org](http://www.fff.org)

---

## **The Fraud of Physician-Assisted Suicide**

**by Sheldon Richman**

Freedom is so little understood in this “land of the free” that it is often confused with its opposite. Case in point: Oregon’s 1994 Death With Dignity Act, which a federal appeals court recently shielded from attack by U.S. Attorney General John Ashcroft.

The law permits what has come to be known as physician-assisted suicide. It and the appellate ruling have been hailed as victories for patient autonomy and the right to commit suicide. Indeed, the *New York Times*, in praising the ruling, editorialized. “The voters of Oregon acted with great humanity when they decided to allow terminally ill people to determine when they have suffered enough.”

But did the voters really do that? A closer look at the law shows they did not.

In fact the law lets a patient who is expected to die within six months *ask* his doctor for lethal drugs. The doctor can say no, as he has every right to do. But since a patient cannot end his own life without the doctor's consent, the law is no milestone on the road to individual freedom.

What happens when a patient makes such a request of his doctor? The state’s requirements are “stringent,” according to Dr. Peter Goodwin, a long-time family physician and an emeritus associate professor in the Department of Family Medicine at Oregon Health and Science University. They include, Goodwin writes, “the attending physician's diagnosis/prognosis and determination that the patient is informed, capable and acting voluntarily.”

Note that the attending physician must be convinced that the patient knows what he’s doing. Whether or not you think doctors have a special ability to see the absence of volition in an action (I don’t), this requirement is hardly consistent with “allow[ing] terminally ill people to determine when they have suffered enough.”

But there’s more. The law states, “A consulting physician must examine the patient and the medical records and concur with the attending physician’s diagnosis/prognosis and assessment of the patient.”

Dr. Goodwin comments: “If the attending physician or the consulting physician thinks the patient may suffer from a psychological disorder causing impaired judgment, the physician must

refer the patient for evaluation and counseling. No medication may be prescribed unless it is *certain* the patient's judgment is not impaired" (emphasis added).

Although these requirements are called "stringent," they are actually elastic and stacked against the patient. What terminally ill patient in great pain could not be said to have impaired judgment? What's the difference between a judgment that's impaired and one that clashes with the doctor's? In a conflict between a patient who sees no better future and wants to die and a physician (perhaps supported by the patient's family) who sees the future differently, who will prevail? The doctor, of course. Yet the law is considered a blow for patient autonomy. How can there be "death with dignity" when the patient must humbly petition the doctors, then meekly wait for a unanimous ruling?

Whatever one thinks of the legal merits of Attorney General Ashcroft's attempt to use federal anti-drug laws to thwart Oregon's voters, physician-assisted suicide is a fraud. As Dr. Thomas Szasz writes in his book *Fatal Freedom: The Ethics and Politics of Suicide*, "The term 'physician-assisted suicide' [PAS] is intrinsically mendacious. The physician is the principal, not the assistant. In the normal use of the English language, the person who assists another is the subordinate; the person whom he assists is his superior.... However, the physician engaging in PAS is superior to the patient: He determines who qualifies for the 'treatment' and prescribes the drug for it."

In other words, the Oregon law has nothing to do with the freedom of the individual and everything to do with the power of doctors. If freedom were the concern, we would simply repeal the drug and prescription laws, and recognize each adult's right to buy any kind of drugs.

Why empower doctors? Suicide isn't a medical issue. It's a moral issue.

Sheldon Richman is senior fellow at The Future of Freedom Foundation in Fairfax, Va., author of *Tethered Citizens: Time to Repeal the Welfare State*, and editor of *The Freeman* magazine.

**This article was originally published in June of 2004.**