#### **Medical Aid in Dying**

Should It Be an Option in Minnesota?

Thaddeus Mason Pope, JD, PhD, HEC-C University of St. Thomas, Terrence J. Murphy Institute September 30, 2020

## Thank you

2



### Introduction



## 2,800,000

total deaths

4

41,000

Minnesota deaths this year

# **Control** timing & manner of death

7

9

Lost ability to enjoy activities

Fear illness related suffering

Fear losing control & independence

Many hasten death every day

10

Stop dialysis

Withdraw ventilator

Deactivate ICD

#### Long-accepted law & practice

14

16



We may judge for ourselves what quality of life is acceptable

# MAID is just one more option

# What is MAID?

# End-of-life option

### For small number of patients

20



# Adults

> 18 years old

Decisional capacity Nobody can request for another

22

### Terminally ill

Incurable & irreversible disease

< 6-month prognosis

26

Counseled on options & alternatives

# What

28

Ask & receive prescription

#### Self-administer

to hasten death

25













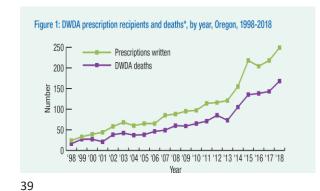
### Patient alone

takes final overt act



1/3 those with MAID prescriptions **do not** take them

38







## How do you get the prescription

# Numerous safeguards

#### Multiple requests

Multiple screenings

44

Prescribing MD

Consulting MD

Mental health MD

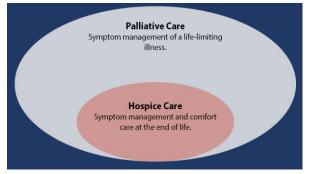
Capacity

Terminally ill

**Understand options** 

45

43



Reevaluate and redouble efforts to address unacceptable condition

#### Waiting periods

Assure reflection deliberation



























62





# September 30

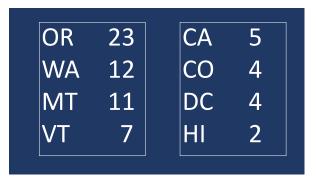
# "1 in 5 Americans"







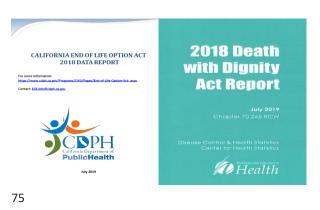




**~70 years** of combined experience Usage

~70 years

74



# <0.5%

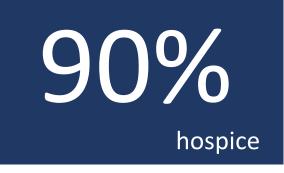
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deaths unaffected











Educated Affluent





## Conclusion

86



# **41,000** Minnesota deaths this year

88

### Most make a deliberate decision to hasten death

Those dependent on dialysis, vents, CANH can & do hasten their deaths Persons similarly situated should be treated alike Every day, terminally ill patients in Minnesota hasten their deaths by withholding or withdrawing treatment

91

93

92

94

# Every 30 minutes

But some patients have **no treatment** to turn off or refuse

MAID gives these terminally ill, competent, adults the same freedom

# **Control** timing & manner of death

#### Thaddeus Mason Pope, JD, PhD

Director, Health Law Institute Mitchell Hamline School of Law 875 Summit Avenue Saint Paul, Minnesota 55105

- **T** 651-695-7661
- **C** 310-270-3618
- E Thaddeus.Pope@mitchellhamline.edu
- W www.thaddeuspope.com
- B medicalfutility.blogspot.com

99

98

# Materials discussed in this presentation are available at

http://thaddeuspope.com

THE RIGHT TO DIE: THE LAW OF END-OF-LIFE DECISIONMAKING (Wolters Kluwer Law & Business) (with Alan Meisel & Kathy L. Cerminara) (2020).

References

Medical Aid in Dying in Hawaii: Appropriate Safeguards or Unmanageable Obstacles? HEALTH AFFAIRS BLOG (August 2018) (with Mara Buchbinder).

Legal History of Medical Aid in Dying: Physician Assisted Death in U.S. Courts and Legislatures, 48(2) NEW MEXICO LAW REVIEW 267-301 (2018).

100

Safeguards, in PHYSICIAN-ASSISTED DEATH: SCANNING THE LANDSCAPE 5-2 to 5-4 (National Academies of Science Engineering & Medicine 2018).

Medical Aid in Dying: When Legal Safeguards Become Burdensome Obstacles, ASCO POST (Dec. 25, 2017).

Oregon Shows that Assisted Suicide Can Work Sensibly and Fairly, 15(2) FINAL EXIT NETWORK NEWSLETTER 7 (May 2016). Clinical Criteria for Physician Aid-in-Dying, 19(3) JOURNAL OF PALLIATIVE MEDICINE 259-262 (2016) (with David Orentlicher & Ben Rich).

The Changing Legal Climate for Physician Aid-in-Dying, 311(11) JAMA 1107-08 (2014) (with David Orentlicher and Ben A. Rich).

Oregon Shows that Assisted Suicide Can Work Sensibly and Fairly, NEW YORK TIMES - ROOM FOR DEBATE, Oct. 7, 2014.

Legal Briefing: Medical Futility and Assisted Suicide, 20(3) J. CLINICAL ETHICS 274-86 (2009).

#### **Medical Futility Blog**

Since 2007, I have been blogging, almost daily, to medicalfutility.blogspot.com. This blog focuses on reporting and discussing legislative, judicial, regulatory, medical, and other developments concerning end-of-life medical treatment conflicts. The blog has received over 4 million direct visits. Plus, it is redistributed through WestlawNext, Bioethics.net, and others.

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