New York Medical Aid in Dying: Legal History, Status, and Safeguards

1

Thaddeus Mason Pope

JD, PhD, HEC-C

2

2025

3

3,500,000

total deaths

4

210,000

NY

5

control

timing & manner of their death

6

7

physical suffering

8

pain

nausea

dyspnea

paralysis

9

existential suffering

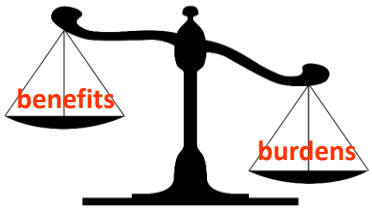
10

psychic pain
loss of control
anxiety
delirium
despair

11

control
timing & manner of their death

12



13

lost ability to enjoy activities

14

fear illness related suffering

15

fear losing control & independence

16

17

18

control
timing & manner of their death

19

how?

20

5 end-of-life options

21

1

22

State of New York

Advance Directive for Health Care

23

decline
life-sustaining treatment

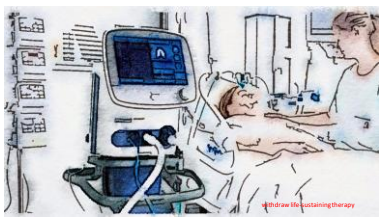
24

dialysis
antibiotics
ANH
mech. ventilation

25

2

26



27

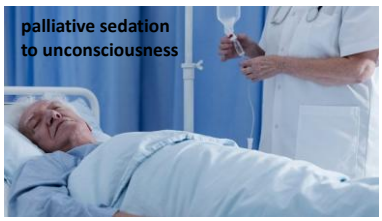
3

28

29

4

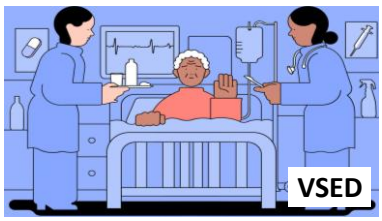
30



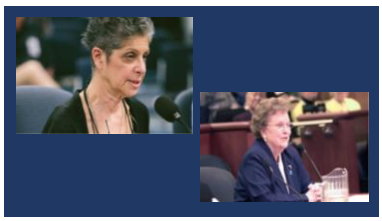
31

5

32



33



34

patients **already** use these 5 EOL options **in NY**

35

EVERY SINGLE DAY

36

+

37

38

make Nyers **aware** of their rights

39

control

timing & manner of their death

40

Palliative Care Information Act

Palliative Care Access Act

A.B. 8880 (July 2022)

A.B. 7872 (Nov. 2024)

41

42

value congruent care

43

NYer **get** Tx they want

44

avoid Tx they don't want

45

46

New Yorkers **already** have **5** EOL options

47

48

6th option

medical aid in dying

49

MAID

medical aid in dying

50

not yet available in New York

51

Assembly Bill A136

2025-2026 Legislative Session

Relates to the medical aid in dying act

52

53

54

AUGUST

18

55

56

New York State
Constitution

57

Art. IV § 7

"any bill … not … returned by the governor **within ten days** … after … presented … shall be a law … as if … she … signed it"

58

roadmap

59

6 parts

60

what is MAID

61

why does NY **need** a statute

62

paths to legalization

63

experience with MAID in **other** states

64

variations in other states

65

patient **safety** protections

66

what is MAID?

67

end-of-life option

68

for **small** number of patients

69

who

70

1

71

adults

72

18+ years

73

2

74

decisional capacity

75

competent

76

mentally capable

77

understand nature & consequences

78

nobody can request MAID for another

79

~~guardian~~

80

~~healthcare agent~~

81

~~surrogate~~

82

~~parent~~

83

patient **themself**

84

3

85

terminally ill

86

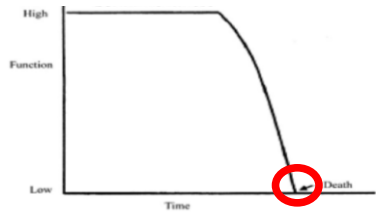
final stage of an **incurable & irreversible** physical medical condition

87

will cause death

< **6** months

88



89

4

90

able to self-ingest

91

drink from cup or straw

press plunger

92

recap

93

adult
competent
terminally ill
able to self-ingest

94

what

95

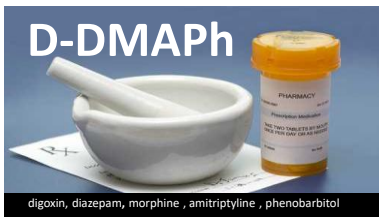
ask & receive prescription

drugs

96

self-administer to hasten death

97



98

sleep	dead
3m	45m

99

quick
peaceful
painless

100

3 ways
to take

101

102

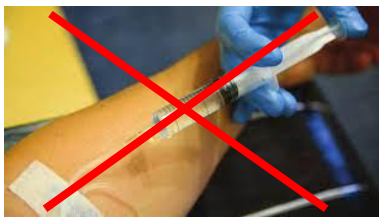
103

104

105

only those
3 routes

106



107

others may help
prepare meds

108

109

may not help
administer meds

110

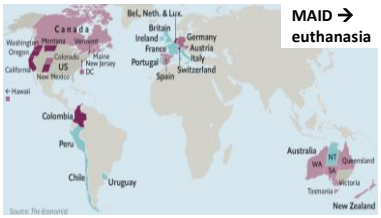
patient alone
takes final overt act

111

112

euthanasia

113



114

but

115

116

nobody administers
drugs to the patient

117

patient does it

themself

118

that's

what MAID **is**

119

why need a statute

120

"medicine has long been recognized as a **self-regulating** profession"

In re North Carolina State Board of Dental Examiners, No. 9343 (FTC Nov. 8, 2010)

121

so, why can't physicians **just start** offering MAID

122

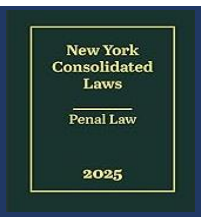
"assisted suicide prohibitions are **deeply rooted** in our nation's legal history"

123

across USA, since 1800s, helping someone commit suicide is a **crime**

124

125



126

N.Y. Penal Law § 120.30

127

"A person is guilty of [class E felony] when he intentionally causes or **aids another person to attempt suicide**"

128

N.Y. Penal Law § 125.15

129

"A person is guilty of manslaughter in the second degree [class C felony] when … he intentionally causes or **aids another person to commit suicide**"

130

131

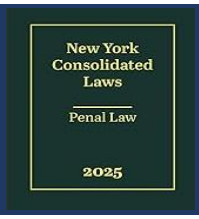
NYS ED .gov
New York State
EDUCATION DEPARTMENT
Office of the Professions

N.Y. Educ. Law § 6530

132

all 56 U.S. jurisdictions prohibit assisted suicide

133



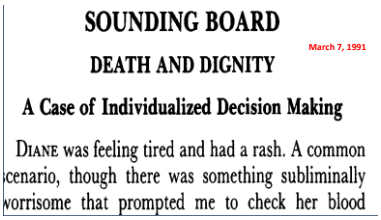
134

135

1991

136

137



SOUNDING BOARD

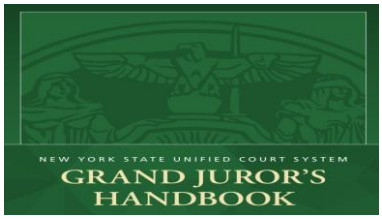
March 7, 1991

DEATH AND DIGNITY

A Case of Individualized Decision Making

DIANE was feeling tired and had a rash. A common scenario, though there was something subliminally worrisome that prompted me to check her blood

138



139

The New York Times

Jury Declines to Indict a Doctor Who Said He Aided in a Suicide

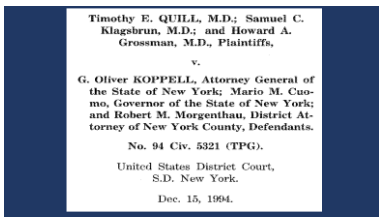
By LAWRENCE K. ALTMAN
Published: Saturday, July 27, 1991

140

141

1994

142



Timothy E. QUILL, M.D.; Samuel C. Klagsbrun, M.D.; and Howard A. Grossman, M.D., Plaintiffs,

v.

G. Oliver KOPPELL, Attorney General of the State of New York; Mario M. Cuomo, Governor of the State of New York; and Robert M. Morgenthau, District Attorney of New York County, Defendants.

No. 94 Civ. 5321 (TPG).

United States District Court, S.D. New York.

Dec. 15, 1994.

143

1997

144

521 U.S. 793, 138 L.Ed.2d 834

Dennis C. VACCO, Attorney General of New York, et al., Petitioners,

v.

Timothy E. QUILL et al.

No. 95–1858.

Argued Jan. 8, 1997.

Decided June 26, 1997.

145

2017

146

30 N.Y.3d 1

Sara MYERS et al., Plaintiffs,

and

Eric A. Seiff et al., Appellants,

v.

Eric SCHNEIDERMAN, in His Official Capacity as Attorney General of the State of New York, Respondent, et al., Defendants.

Court of Appeals of New York.

Sept. 7, 2017.

147

2024

148

The New York Times

Ex-Doctor Pleads Guilty to Manslaughter in New York Woman's Suicide

149

150

clearer in New York than anywhere else

prohibition on assisted suicide **blocks** MAID

151

MAID = AS

152

153

"aid in dying falls **squarely within** … the statutory prohibition"

154

MAID = AS

155

AS = felony

156

MAID = AS

AS = felony

MAID = felony

157

SO…

158

no MAID in NY

159

Assembly Bill A136

2025-2026 Legislative Session

Relates to the medical aid in dying act

160

redefinition

161

N.Y. Pub. Health L. § 2889-N

"action … in accordance with this article **shall not … constitute** suicide, assisted suicide"

162

MAID ≠ AS

163

164

paths to legalization

165

4 paths

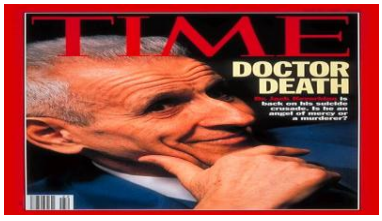
166

path 1

litigation

US Constitution

167



168

1994

169

170

171

172

173

Timothy E. QUILL, M.D.; Samuel C. Klagsbrun, M.D.; and Howard A. Grossman, M.D., Plaintiffs–Appellants,

v.

Dennis C. VACCO, Attorney General of the State of New York; George E. Pataki, Governor of the State of New York; Robert M. Morgenthau, District Attorney of New York County, Defendants-Appellees.

No. 60, Docket 95–7028.

United States Court of Appeals, Second Circuit.

Argued Sept. 1, 1995.

Decided April 2, 1996.

174

"New York statutes criminalizing assisted suicide **violate** the Equal Protection Clause"

175

TI NY Pt on MV **may** stop MV and die

TI NY Pt not on MV **may not** hasten their death

176

1997

177

178

"no"

179

180

SO…

181

focus on rights
at **state** level

182

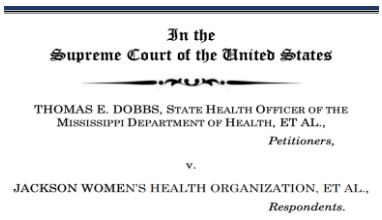
183

"entrusted to … **laboratory** of the **states**"

184

MAID || abortion

185



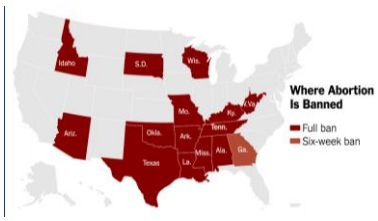
In the
Supreme Court of the United States

THOMAS E. DOBBS, STATE HEALTH OFFICER OF THE MISSISSIPPI DEPARTMENT OF HEALTH, ET AL.,
Petitioners,

v.

JACKSON WOMEN'S HEALTH ORGANIZATION, ET AL.,
Respondents.

186



187

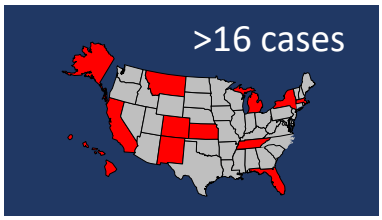
path 2

litigation
state constitutions

188

state constitutions
broader stronger
individual rights

189



190

all 16
failed

191

192

30 N.Y.3d 1

Sara MYERS et al., Plaintiffs,

and

Eric A. Seiff et al., Appellants,

v.

Eric SCHNEIDERMAN, in His Official Capacity as Attorney General of the State of New York, Respondent, et al., Defendants.

Court of Appeals of New York.

Sept. 7, 2017.

193

followed SCOTUS on both equal protection and due process arguments

194

195

no right under
US constitution

196

no right under
state constitutions

197

path 3
state statutes

198

early efforts

1988	California
1991	Washington
1992	California
1994	Michigan

199

200

problem

201

legalize **both** euthanasia **and** MAID

202

203

MAID

204

self ingestion

patient takes the final overt act

205

euthanasia

206

clinician makes the final overt act

207

46/54

208

all U.S. bills focus on MAID **only**

209

limited to patient administered (**self** ingestion)

210

1994

(1997)

211

212

numerous safeguards

213

multiple requests

multiple screenings

214

prescribing MD

consulting MD

mental health MD

215

216

voluntary
informed
enduring

217

218

219

2008

220

221

2013

222

Vermont

223

2015

224

225

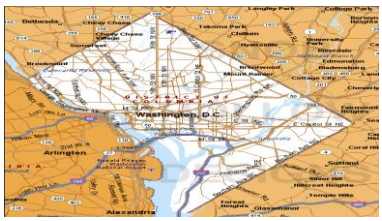
2016

226

227

2017

228



229

2018

230

231

2019

232

233

234

2021

235

236

2025

237

238

239

path 4

statutory interpretation

240

MAID ≠ AS

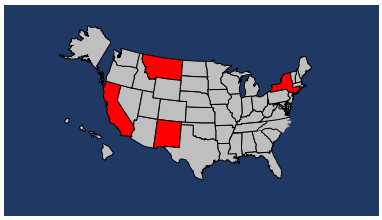
241

not by expressly **excluding** MAID from scope of assisted suicide

242

statutes do not apply to MAID because it is **different** from assisted suicide

243



244

245

30 N.Y.3d 1

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Eric A. Seiff et al., Appellants,

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Eric SCHNEIDERMAN, in His Official Capacity as Attorney General of the State of New York, Respondent, et al., Defendants.

Court of Appeals of New York.

Sept. 7, 2017.

246

all but 1
failed

247

2009

248

249

no MAID
statute

250

but

251

considered
legal

252

253

"**consent** of the victim ... is a **defense**"

Mont. Code Ann. 45-2-211

254

patient consent

not prohibited

255

256

257

258

MT exception

259

MAID must be **legislatively** authorized

260

261

262

NEW YORK STATE

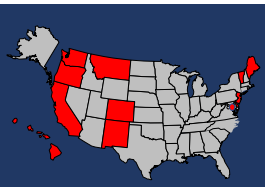
263

US constitution (1997)
NY constitution (2017)
statutory interpretation (2017)
enact statute (2025)

264

12 states

265



266

75,000,000
Americans live in
a MAID jurisdiction

267

"1 in 5
Americans"

268

75m / 340m

269

experience in
<u>other</u> states

270

271

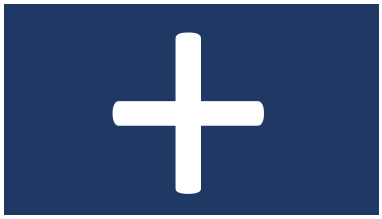
115 years

combined experience

272

OR	27	DC	8
WA	16	HI	6
MT	15	ME	5
VT	12	NJ	5
CA	9	NM	4
CO	8	DE	0

273



274

OREGON HEALTH AUTHORITY
Public Health Division
Center for Health Statistics

2024
Oregon Death with Dignity Act
Data Summary

275

~100

DOH reports

276

277

SO…

278

NEW YORK STATE ASSEMBLY
Speaker Carl E. Heastie

"we no longer have to **hypothesize** about what will happen if this … is authorized in New York. **We know**"

279

what the **data** show

280

who

281

terminal illness

282

76% cancer

283

14% neuro / ALS

284

10% cardiovascular

285

demographics

286

95% insured

287

72% some college

288

95%
white

289

50/50
male / female

290

age

291

76%
> age 65

292

8%
< age 54

293

finally

294

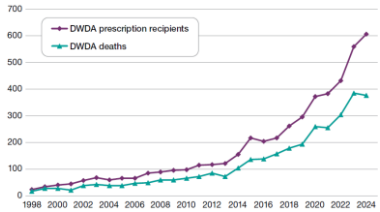
93%
hospice

295

296

>1/3 who get MAID prescriptions **never** take them

297



298

299

300

301

that's **who** uses MAID

302

how many

303

304

1997 - 2024

305

3240
MAID deaths

306

1,000,000
total deaths

307

0.2%

308

per year

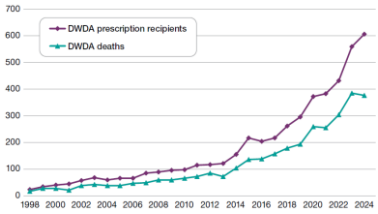
309

2024

310

607 Rx
376 ing

311



312

376
MAID deaths

313

45,000
total deaths

314

0.8%

315

<1%

316

317

OR 4m
NY 20m

318

OR x 5

319

320

3035 Rx
1880 ing

321

1880
MAID deaths

322

210,000
total NY deaths

323

<1%

324

high estimate

325

2024 was Oregon's **27th** year

326

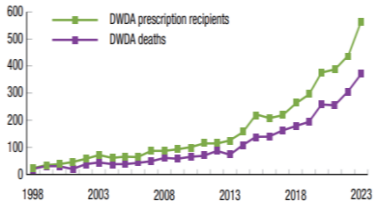
implementation takes **time**

327

started MAID 20 years after OR

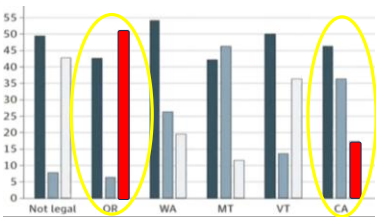
only **10%** patients

328



329

330



331

usage also impacted by **access rules**

332

growing variations in MAID laws

333

334

335

336

337

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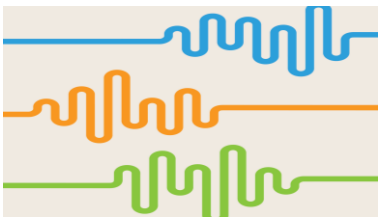
340

341



342

2019

343

344

345

more focus on

access

346

can patients **get** it?

347

348

349

5 variations

350

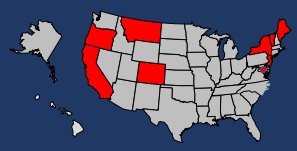
variation 1

351

who can prescribe

352

8 states



353

including New York

354

physicians only

355

MD *or* DO

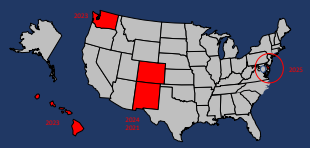
356

but

357

358

5 states



359

also

APRN *or* PA

360

IN IA KY MN
NH PA VA WI

361

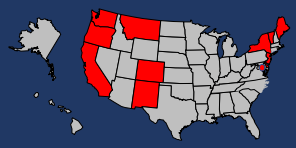
variation **2**

362

how **many** capacity assessments

363

12 states



364

including New York

365

2

366

attending + consulting

367

refer to mental health specialist **only** if unsure

368

but

369

1 state

370

3 always

371

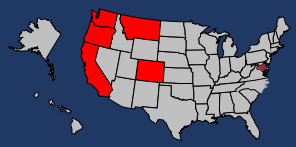
variation 3

372

who can make 3rd capacity assessment

373

7 states



374

psychologist
or
psychiatrist

375

but

376

6 states

377

including New York

378

379

psychiatric nurse practitioner

licensed clinical social worker

clinical mental health counselor

380

variation **4**

381

how **long** is the waiting period

382

5 states

383

2 oral requests separated by **15+ days**

384

undue burden

385

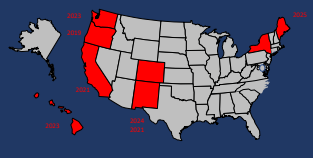
many patients cannot wait that long

386

so…

387

8 states



388

including New York

389

shortened wait period

390

or

391

392

AZ IL IA MN
FL IN KY VA

393

variation **5**

394

residency requirement

395

“resident of ___”

396

CA permits MAID for **only** **CA** patients

397

but

398

2023

399

~~"resident of ___"~~

400

401

Vermont

402

403

IA MI MN NH NY WI

404

405

406

"citizens of each state shall be entitled to **all privileges ... of citizens** in [other] states"

407

SO ...

408

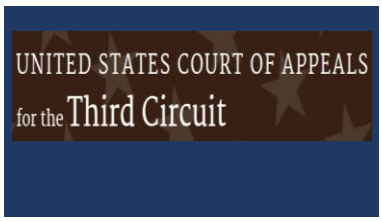
NJ **may not** limit MAID to New Jerseyans

409

CO **may not** limit MAID to Coloradoans

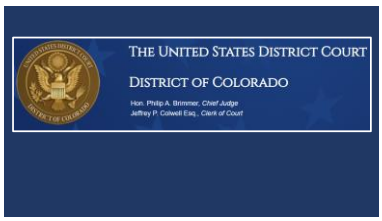
410

411



412

413



414

415

New Yorkers **already** get MAID

416

2 ways

417

418

419

DIGNITAS

To live with dignity

To die with dignity

420

421

A+HANASIOS

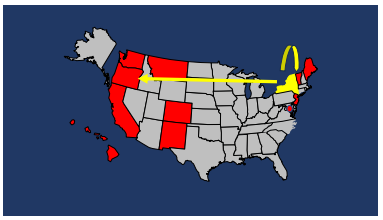
422

423

424

SO…

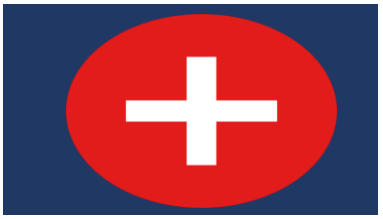
425



426

Youssef Cohen

427

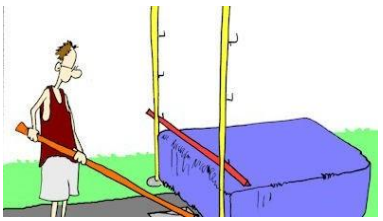


428

residency requirements in others **easy**

429

430



431

driver license

voter registration

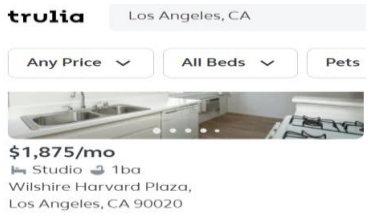
tax return

own / **lease property**

432

no minimum duration

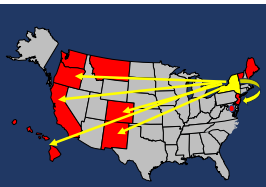
433



434

SO …

435

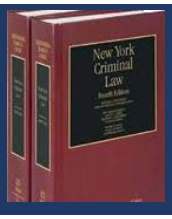


436

437

don't take MAID meds to NY

438



N.Y. Penal Code § 120.30

439

440

441

variation 6

442

opt-out
transparency

443

voluntary
& optional

444

no clinician
must participate
who does not want

445

no facility
must participate
who does not want

446

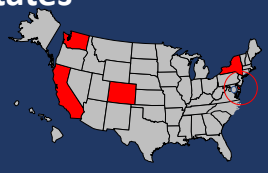
but

447

how does
Pt identify

448

5 states



449

including
New York

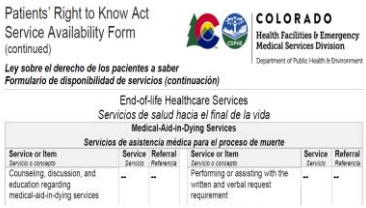
450

451

who participates

who does not

452


Patients' Right to Know Act
Service Availability Form
(continued)

COLORADO
Health Facilities & Emergency Medical Services Division
Department of Public Health & Environment

Ley sobre el derecho de los pacientes a saber
Formulario de disponibilidad de servicios (continuación)

End-of-life Healthcare Services
Servicios de salud hacia el final de la vida

Medical-Aid-in-Dying Services
Servicios de asistencia médica para el proceso de muerte

Service or Item *Servicio o concepto*	Service *Servicio*	Referral *Referencia*	Service or Item *Servicio o concepto*	Service *Servicio*	Referral *Referencia*
Counseling, discussion, and education regarding medical-aid-in-dying services	--	--	Performing or assisting with the written and verbal request requirement	--	--

453

454

Assembly Bill A136

2025-2026 Legislative Session

Relates to the medical aid in dying act

455

Assembly Bill A3862

2025-2026 Legislative Session

Relates to providing information to patients and the public on hospital rule-based exclusions

456

457

hospital rule-based exclusions

458

459

6 variations MAID laws

460

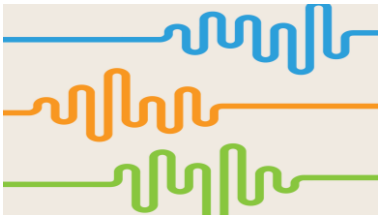
1. type att/con clinician
2. # capacity assessments
3. type MH clinician
4. waiting period
5. residency
6. opt-out transparency

461

2026

462

463



464

465

466

~~6-month prognosis~~

ingestion, not IV

467

patient safety

468

numerous safeguards

469

multiple requests

multiple screenings

470

prescribing CLIN

consulting CLIN

mental health CLIN

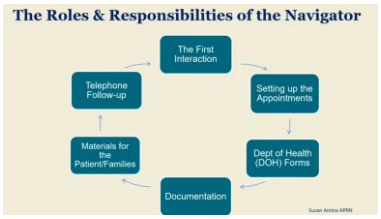
471

terminally ill

capacity

consider alternatives

472



473

voluntary

informed

enduring

474

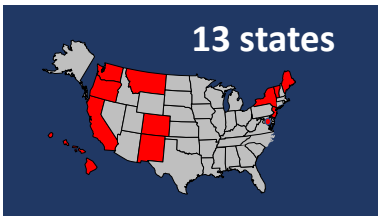
475

476

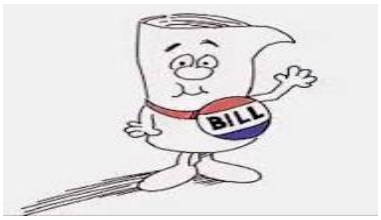
no abuse

477

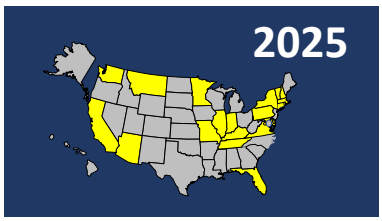
478



479



480



481

482

voluntary & optional

483

>115 years
combined experience in 12 states

484

no patient
got MAID who did not want it

485

no clinician
had to participate who did not want

486

no facility
had to participate
who did not want

487

opt-**in** only

488

Catholic Health

489

respond to objections

490

NEW YORK ALLIANCE AGAINST ASSISTED SUICIDE
NEW YORK FAMILIES ACTION
New York State Catholic Conference

491

objection 1

492

493

Be precise. Vague doesn't work.

494

495

risk > 0 → ban

496

497

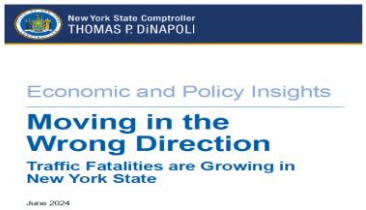
498

0 in 20,000

499

even if concerns
were evidence-based
we **accept** some risk

500

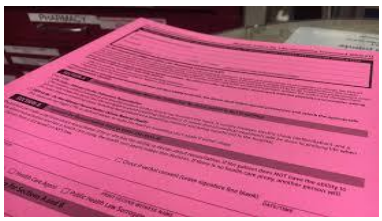


501

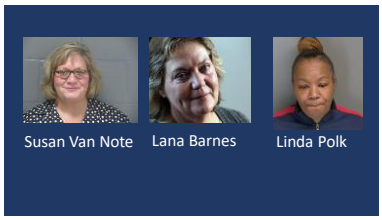
every day in New York
>3 fatalities
>30 serious injuries

502

503

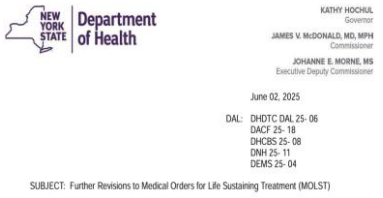


504



505

506



507

objection 2

508

bias & prejudice

509

patients with dementia or mental disabilities get MAID b/c **bias, bigotry, prejudice**

510

511

0%

512

ineligible

3 reasons

513

person electing MAID must have decision making **capacity**

514

person electing MAID must request **herself**

515

attending MD
consulting MD
2 witnesses

516

nobody can choose MAID for another

517

person electing MAID must be **terminally ill**

518

nobody can say Pt should have MAID because their life is not worth living

519

only **the Pt** is entitled make that judgment about their **own** life

520

objection 3

521

driven by money

522

financial incentive to **steer** to MAID

523

524

no evidence
pushing or driving

525

plus

526

premise **false**

527

MAID does **not** save money

528

MAID patients are **already** on hospice

529

95%
hospice

530

MEDICARE & YOU
Hospice

531

already stopped curative directed treatment

532

70% cancer

533

534

objection 4

535

fail assure capacity

536

MAID available only **decision-making capacity**

537

capacity assessed attending MD ***and*** consulting MD

538

2 assessments

539

sometimes 3

540

must refer mental health specialist only if **unsure**

541

Characteristics	2024 (N=376)		2023 (N=386)		1998–2022 (N=2,481)		Total (N=3,243)	
Referred for psychiatric evaluation	3	(0.8)	3	(0.8)	74	(3.0)	80	(2.5)

542

1st 25 years – only **3%** referred to MH clinician

543

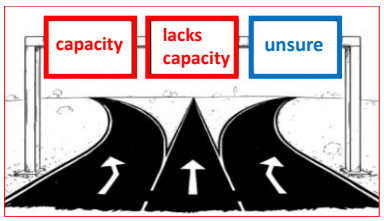
last 2 years **<1%** referred to MH clinician

544

545

no evidence
patient with impaired judgment got MAID

546



547

physicians determine capacity **every day**

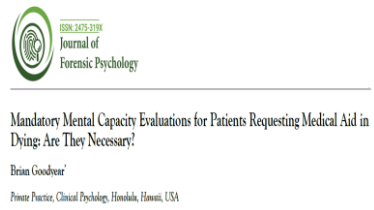
548

549

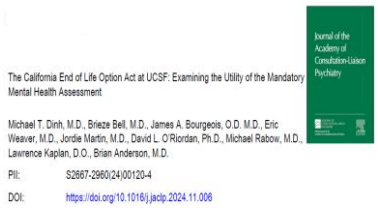
no evidence

making 3rd assessment automatic adds safety

550



551



552

objection 5

553

fail assure terminal illness

554

MAID available only patients with **terminal illness**

555

"incurable and irreversible disease … produce death within **six months**"

556

< 6-month prognosis

557

"inexact"

"often mistaken"

558

ability prognosticate
"sorely **lacking**"

"outlive … diagnosis"

559

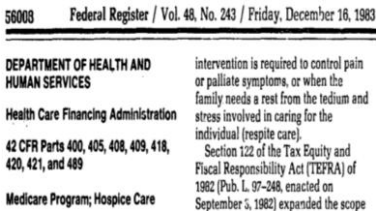
560

3 responses

561

1 vetted
tested

562


56008 Federal Register / Vol. 48, No. 243 / Friday, December 16, 1983

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 400, 405, 408, 409, 418, 420, 421, and 489

Medicare Program; Hospice Care

intervention is required to control pain or palliate symptoms, or when the family needs a rest from the tedium and stress involved in caring for the individual (respite care).

Section 122 of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 (Pub. L. 97-248, enacted on September 3, 1982) expanded the scope

563

since
1983

564

~40 years

565

>1,000,000 / year
qualify for hospice based
on the **6-month** prognosis

566

hospice election
consequential

567

waive Medicare coverage for terminal illness

568

95%

MAID patients already on hospice

569

2 prognosis accurate

570

2020

Oregon Death with Dignity Act

2020 Data Summary

571

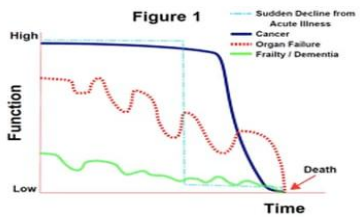
underlying illness

572

Ca & ALS

85%

573



574

2020

Oregon Death with Dignity Act

2020 Data Summary

575

1998 - 2020

4% outlived 6mo

576

3 imprecision **irrelevant**

577

TI is **only** an eligibility requirement

578

TI is **not** reason to hasten death

579

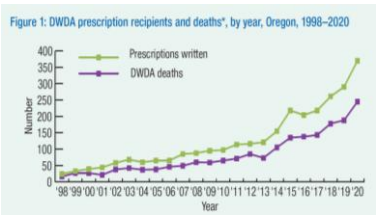
qualify → prescription

580

581

ingestion **later**, if at all

582



583

nobody ingests b/c 6-mo

584

ingest when **burdens** TI too much

585

586

objection **6**

587

abuse of vulnerable

588

vulnerable
disadvantaged
pressured

589

590

worries **not** manifested

591

95%
Graduated HS

592

73%
College, grad school

593

99%
insured

594

96% white

595

not vulnerable & disadvantaged

596

objection 7

597

medication complications

598

OREGON HEALTH AUTHORITY
Public Health Division
Center for Health Statistics

2024
Oregon Death with Dignity Act
Data Summary

599

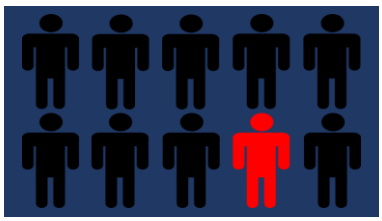
Characteristics	2024 (N=376)	2023 (N=386)	1998–2022 (N=2,481)	Total (N=3,243)
Seizures	1	1	3	5
Other	1	1	18	20
None	112	93	917	1,122
Unknown	*255*	*283*	*1,499*	*2,037*
Other outcomes				
Regained consciousness after ingesting DWDA medications	0	0	9	9

Complications[7]	(N=376)	(N=386)	(N=2,409)	(N=3,171)
Difficulty ingesting/ regurgitated	7	8	44	59

600

Duration between ingestion and death				
Median	53	53	30	36
Range	7min–26hrs	3min–137hrs	1min–104hrs	1min–137hrs
Patients with information available	*261*	*255*	*1,372*	*1,888*
Patients with information unknown	*115*	*131*	*1,109*	*1,355*

601



602

603

every healthcare intervention has potential complications

604

address with informed consent

605

objection **8**

606

coerced ingestion

607

safeguards all focus on the **prescription**

608

609

610

0 in 20,000

611

risk no higher than for **other** hospice patients

612

613

614

615

lower

616

617

618

no prepare

no pickup

until ready to ingest

619

clinician at ingestion

confirm capacity

confirm voluntary

620

621

conclusion

622

NEW YORK STATE ASSEMBLY
Speaker Carl E. Heastie

A.B. 136

623

MAID "**protects** patients, **affords** dying people autonomy, and **improves** care across the end-of-life spectrum"

624

625

626

patients **already** control timing & manner of death

627

628

MAID is **one** more option

629

630

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631