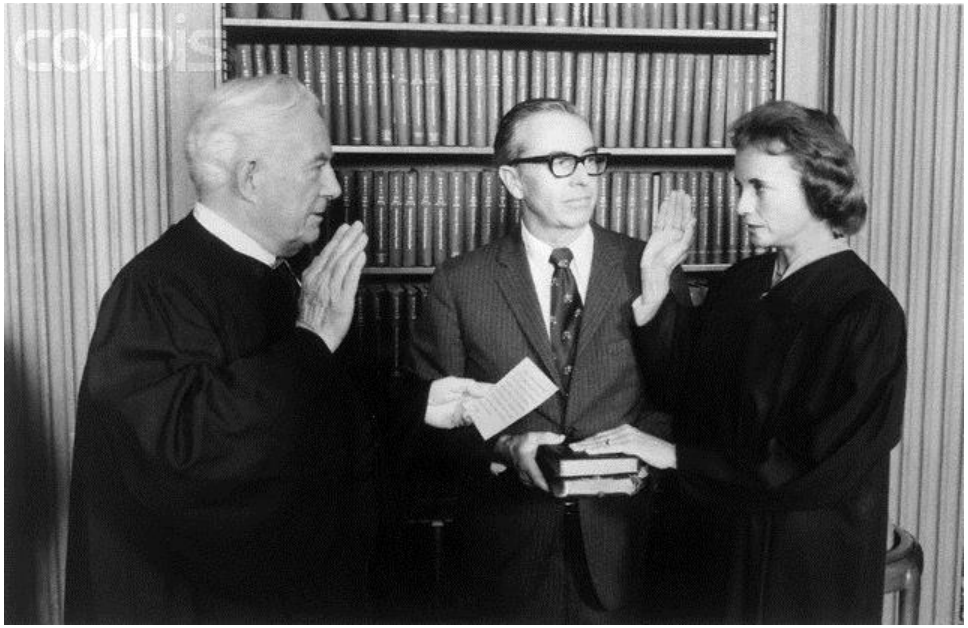
# Physician Assisted Death Primary Care Update 2013

Disclaimer:

No conflicts, No financial disclosures,

No off-label uses.

Just facts and some opinions.



# Physician Assisted Death

- Definitions
- History
- Medical Perspectives
- Legal Perspectives
- Where are we going?

# Definitions

- Physician Assisted Death (PAD)=
- Physician Assisted Suicide:
- Doctor Prescribes a medication in a dose high enough to cause the patient's death
- Euthanasia from the Greek term
- "dying well" or "a good death"
- Passive Euthanasia: treatment is withdrawn or withheld, leading to death (minutes-days)
- Active Euthanasia: death is caused by a person administering a lethal dose of medication to the patient

# “Voluntary”

- Principles of Medical Ethics:
- Autonomy/ Independence
- Beneficence
- Justice/ Fairness
- ----------
- INVOLUNTARY EUTHANASIA= MURDER

# Definition of Death

- Ceasing of heart beat and respiration
- Ceasing of brain wave activity=
- Brain death= permanent vegetative state
- A. Unresponsive
- B. No spontaneous respiration
- C. No brainstem reflexes
- D. No brain waves (electrical activity)

# The Extremes of Life

- Euthanasia/PAD is Primarily Practiced at the beginning or end of life.
- 20th Century – Many severely deformed or
- Handicapped infants were subject to euthanasia
  - "Baby Doe" Cases 1980's

# Rehabilitation Act of 1973
# Child Abuse Amendments of 1986

- “Handicapped children shall not be discriminated against by a program or institution receiving Federal Funds” AND
- State Child Protective will respond in cases of “medical neglect”
- Euthanasia / PAD of infants is a non-issue:
- 1. Prenatal Testing & Diagnosis
- 2. Pregnancy Termination/ Abortion Services
- 3. Neonatology: The Rise of the NICU/PICU

# History of PAD/ Euthanasia

- Average Life Expectancy
- 1700= 36 years
- 1850=38
- 1900=48
- 1950=66
- 2000=75
- ----------
- Morphine synthesized in 1803

# History Euthanasia

- 400 BCE - Hippocratic Oath “Do No Harm”
- 1828 - NY outlaws assisted suicide
- 1939-45 Nazis Exterminate the disabled and mentally ill
- 1950- World Medical Association condemns
- Euthanasia
- 1960’s CCU/ICU and the DNR Order
- 1960’s-70’s– Hospice Movement
- 1990- Dr. Jack Kevorkian performs 1st active euthanasia in USA

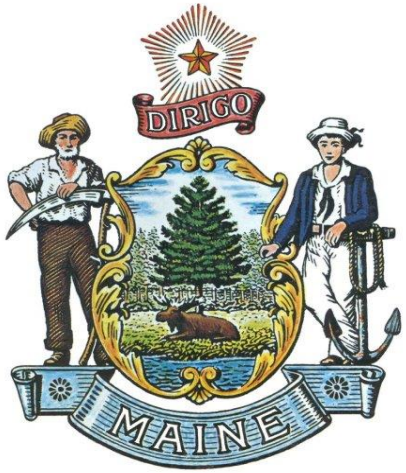
- 1994 – Oregon Death With Dignity Act allows
- Physician assisted death
- 1997 – US Supreme Court:
- “No Constitutional right to die”
- 2002 – Euthanasia legalized in Netherlands & Belgium
- 2005 – Switzerland allows assisted suicide in hospitals

- 2008 Washington State legalizes Physician Assisted Suicide
- 2009 Montana Supreme Court allows
- Physician Assisted Suicide (Baxter v. Montana)
- 2013 Vermont – Act 39:  Patient Choice At End of Life Act

# Maine

- Referendum Question November 2000:
- “Should a terminally ill adult who is of sound
- Mind be allowed to ask for and receive a doctor’s help to die?”

- YES 49%
- NO 51%



# Medical Perspective

- Hospice and Palliative Care
- Dame Cicely Saunders – founder of the modern hospice movement 1960s UK
- “Comfort Care”: Emphasis on relieving pain,
- Treating symptoms, and providing supportive care BUT NOT “ACTIVELY” Treating Disease
- 2010 : Almost 5,000 hospice-palliative care programs in the USA

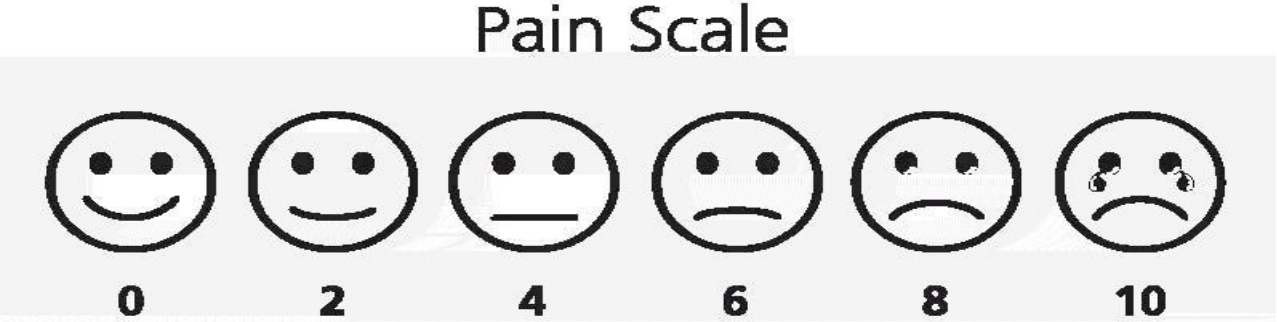
- More than 50% of patients die in Hospital
- About 40% of deaths are in hospice care- 20 days
- Medicare Hospice Benefit: available to those
- With terminal condition who are expected to
- Live 6 months or less
- Global payment of $125/day
- PROBLEMS: Hospitalization AND “ACTIVE” Treatment

# Double Effect and "Unintended" Consequences

- Drugs Used to treat pain and anxiety
- Morphine and benzodiazepines
- depress respirations and lower blood pressure and heart rate.
- Border Between Controlling Pain and
- Hastening Death?

# Pendulum of Pain Control

- Pain as the "5th Vital Sign"
- Limiting Narcotic Use to "Prevent Addiction"
- Versus Liberal Narcotic Prescribing to "Control
- Pain"
- Acute versus Chronic Pain
- Terminal Illness versus Chronic Illness



# Case 1

- You are the hospitalist at a large inner city hospital.  You are covering  a long-term care unit where most of the patients are elderly and on ventilators.
- There is a natural disaster.  The bottom floors of the hospital are flooded. There is no electricity or sanitation.
- The temperature is almost 100 degrees on the floor. You have a minimum of nursing staff who have been on duty 24 hours a day for 3 days.

- Most patients and staff have been evacuated but because your patients are so ill, it is unclear if they can or will be evacuated.

- What should you do?

# Case of Dr. Anna Poux

- Arrested and charged with giving lethal injections of morphine and midazolam
- To four patients (ages 61-97) at a New Orleans Hospital three days after Hurricane Katrina in 2005.
- The charges were later dropped.

# Legal Perspective

- Adults have the right to refuse unwanted medical treatment.
- A Guardian for the patient may make this decision if the patient is unable.
- In Re Quinlan (1976), Cruzan v Missouri (1990)
- In Re Schiavo (2001)

# Do Patients have a RIGHT to die?

- 2 patients challenged the laws in their states
- Prohibiting physicians from assisting them in
- Their deaths/ suicides.
- They asserted the Constitution gives citizens a right to die
- The Supreme Court Disagreed (9-0):
- Washington v Glucksberg
- Vacco v Quill (1997)

# Oregon Death With Dignity Act (1994)

- Prohibits Active Euthanasia
- Adults Only
- Must have medically confirmed terminal disease
- Requires Exam by 2nd Physician
- Can not have any medical condition that would impair judgment
- After request is authorized, patient must wait 15 days and then make a 2nd oral request before RX can be written

# Federal Challenge to Oregon's Law

- Federal Government asserted that Controlled Substances Act prohibited physicians from
- Prescribing drugs unless there was "legitimate
- Medical purpose." Federal Gov't argued assisting In patient's death was NOT such a purpose.
- Supreme Court disagreed in Gonzales v Oregon (2005)

# Oregon's Death with Dignity Act

- SUMMARY OF DATA 1998-2007 (10 years)
- Total of 341 patients died (34/year)
- Average age: 69
- About 65% had attended college or had degree
- 97% were Caucasian
- 82% underlying illness terminal cancer
- About 8% had ALS
- 86% were enrolled in hospice
- 93% died at home
- 1% had no insurance

# Major End of Life Concerns (Oregon)

- 1. Loss of Autonomy
- 2. Loss of Ability to Engage in Activities that
- Make life enjoyable
- 3. Loss of Dignity
- 4. Between 24-50% Complained that
- Pain Necessitated their request for the RX

# Netherlands

- PAD and voluntary euthanasia since 2002:
- 1.7% of all deaths were due to voluntary euthanasia
- 0.1% were the result of PAD
- Questionnaires were mailed to Doctors
- Response rate was 78%

- “End of Life Practices…” NEJM 356:19, pg 1957 (2007)

# Maine Law

- MRSA Title 17-A ,Section 204
- Aiding (in) Suicide: a Class D crime, punishable by up to 1 year in jail and a fine up to $2,000

# Case 2A

- You are the medical director of a large insurance company. There is a new cancer treatment for CML, a cancer that primarily affects the elderly. Giving the drug for 5 weeks
- Prolongs the average patient's life by 3 months. The drug costs $4,000/ week.
- Do you approve this drug and pay the claims?

# Case 2B

- You are still the medical director at the same
- Large insurance company. Doctors in Vermont
- Are submitting bills for “End of Life Care Visits” and patients are submitting drug
- Claims for drugs prescribed for their Physician
- Assisted Death/Suicide.
- The Average Claim Amount for both visit and
- Drug is $350
- Do you pay these claims?

# Options

- 1. Pay for Both
- 2. Pay for Neither
- 3. Pay for the Cancer Treatment,
- Deny the End of Life Visit/ Drugs
- 4. Pay for the End of Life Visit/ Drugs
- Deny the cancer treatment

# Where Are We Going?

- 4 European Countries Allow Either Physician Assisted Suicide or Active Euthanasia:
- Belgium, Luxembourg, Netherlands, Switzerland
- 4 US States Allow Physician Assisted Suicide:
- Montana, Oregon, Vermont, and Washington
- Passive Euthanasia= withdrawal of ventilator support and tube feedings is common in USA

- Hospice and Palliative Care is widely available
- And not controversial or contentious.
- Major issues:
- 1. Patient Acceptance (average 20 days)
- 2. “Usual Care” vs Active Disease Treatment
- 3. Hospitalization

# Continuum

- 1. Failing to provide care (DNR)
- 2. Withdrawing care (stopping IV/tube feeds)
- 3. Hastening Death by “Double Effect”/Unintended Consequence (morphine)
- 4. PAD/PAS- DO gives RX (“proximate cause”)
- 5. Voluntary Euthanasia (Dr. Kevorkian)
- 6. Involuntary Euthanasia (Criminal Murder)

# The Two Sides: Proponents

- Libertarian Argument:
- Physician Assisted Death Provides Patients with Autonomy and the means to control when they die
- Issues: Pain Control & Depression
- Do Doctors and the Healthcare System meet patient's end of life needs?

# OPPONENTS

- There is a Right to Life (but No right to Die)
- All life is sacred and must be preserved/prolonged/extended ?
- Religious Principle: Suicide is morally wrong
- Doctors have a duty to heal
- “Slippery Slope”: PAD will lead to involuntary
- Euthanasia  among the poor, elderly, handicapped, and minority groups for economic reasons and will damage our society

# How does PAD relate to hospice?

- If hospice/ palliative care is available, then why is Physician Assisted Suicide needed?
- 1. Not all terminally ill patients are eligible or
- Enrolled in hospice.
- 2. Hospice care can provide pain and symptom relief,  drugs can not be prescribed to “end life”

# Physician Assisted Death/Suicide

- Death: Depressing, Difficult,  Emotional and Controversial Issue.
- Hospice/ palliative care a “middle ground”
- Do we really perform PAD/ PAS unobtrusively under a different name & with different intent?
- “Don’t ask – don’t tell”

# Summary

- No consensus over end of life care
- Some Patients want Autonomy and Control over their Death
- Opponents cite religious/ moral arguments
- 4 States offer PAD/PAS  as an option
- Many Doctors are conflicted/ opposed
- Slow societal movement to PAD/PAS

# References


- Euthanasia, 2nd Ed, J. McDougall and M. Gorman, ABC-Clio, 2008
- At Liberty to Die, H. Ball, NYU Press, 2012
- Euthanasia, website: www.Pro-Con.org
- Health Care Law & Ethics, M. Hall et al,
- West, 1999
- Physician Assisted Suicide, NEJM 368:15

4/11/2013, 1450-52.

# Questions?