

Virtual Mentor

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CASE AND COMMENTARY

Oregon v. Ashcroft: Physician Assisted Suicide with Federally Controlled Substances

Commentary by Amber Orr, JD, MPH

Case

A friend and colleague Dr. Barber was recently diagnosed with colon cancer and urgently moved from your medical center in Portland to Houston for treatment and the support of her family. Upon hearing the sad news you volunteer to help in any way and agree to accept several of her patients. Dr. Barber calls you about one of the patients you have accepted. EH, is a 46-year-old woman with liver cancer who has enjoyed a long, trusting relationship with Dr. Barber. Dr. Barber has been a strong advocate for EH and also expresses her great confidence in your professional skills and ethical wisdom. She asks you in a serious tone to complete a task that she was unable to complete before her retirement. She tells you this is very important to her, and its completion will finally allow her to focus on her family and provide significant closure to her medical career.

She asks you to write a prescription for secobarbital for EH so that EH can make a decision about her own death. Three physicians have certified in writing that EH is within 6 months of death. She has been found to be mentally competent by your former psychiatry instructor, Dr. Redman. Also in her file is a long, compelling letter written by EH detailing why she wants access to barbiturates to end her life, how she has researched her options for 3 years, and how she willingly asked Dr. Barber for a prescription.

The following Tuesday at hospital grand rounds you learn that US Attorney General John Ashcroft has issued a letter encouraging the Drug Enforcement Agency (DEA) to take action against any physician who assists in a suicide. You have taken a significant amount of time in your decision about EH and have determined that EH meets all the eligibility criteria for assistance under the Oregon Death with Dignity Act.¹ You also are now aware that you will be required to record your participation and the prescription of the lethal dosage of barbiturates (a federally regulated substance) with the Oregon Department of Health. Drs. Barber and Redman both remind you that your duty is to EH and that Oregon voters approved the law by 60 percent. Your trusted friends and colleagues insist that EH has the right to make difficult choices about her death, and they suggest that any alternative could be equated with abandonment of EH in her time of need.

Convinced that terminally ill adults have a right to death with dignity, yet fearful that you may lose your license to prescribe federally regulated substances, you think about the harm that such a loss would cause to you as a professional and to your patients for whom you could no longer prescribe.

Questions for Discussion

1. Is physician-assisted suicide fundamentally incompatible with physicians' role as healers? See AMA Principles III and IV² and *Code of Medical Ethics*, Opinion 2.211, Physician-Assisted Suicide.³
2. EH's needs for powerful pain medication will become extreme as her illness progresses. Are you concerned about prescribing adequate pain medication that could result in your patient's death even where medically appropriate? <https://www.usdoj.gov/dea/pubs/pressrel/pr110601.html>. Proponents of Ashcroft's position claim that DEA agents will easily be able to determine the differences between intentionally causing a death and prescribing enough medication to provide adequate pain relief. Do you agree?
3. The legal question of authority over Oregon physicians hinges on federal versus state's rights. In 1997, the US Supreme Court ruled that the Constitution does not guarantee citizens a right to commit suicide with the aid of a physician, and it left the question of legality to state legislatures to decide. A recent US Supreme Court decision about the medical use of marijuana prompted Ashcroft's insistence that federal law regulating controlled substances be uniform throughout the United States and not be superseded by state law². Does the memo from US Attorney General John Ashcroft to the DEA amount to government interference in the practice of medicine in Oregon? Does the memo usurp the physician's professional right and obligation to practice medicine as he or she sees fit?
4. How will the memo impact the ethical and treatment decisions you make as a professional and physician with an important clinical and ethical role in society?

References

1. Death with Dignity Act. <https://www.oregon.gov/dhs/ph/pas/docs/statute.pdf>.
2. American Medical Association. Principles of medical ethics. *AMA Code of Medical Ethics*. <http://www.ama-assn.org/ama/pub/category/2512.html>
3. Opinion 2.211 Physician-assisted suicide. American Medical Association *Code of Medical Ethics 1998-1999 Edition*. Chicago, IL: American Medical Association; 1998.

Amber Orr, JD, MPH is a fellow in the AMA Ethics Standards Group.

The people and events in this case are fictional. Resemblance to real events or to names of people, living or dead, is entirely coincidental. The viewpoints expressed on this site are those of the authors and do not necessarily reflect the views and policies of the AMA.

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