

January 2021 HCB 523 Special Topics in Medical Humanities

THE ETHICS OF PHYSICIAN-ASSISTED SUICIDE (PAS) (or THE ETHICS OF PHYSICIAN-ASSISTED DEATH (PAD)?)

Winter Session (Draft Syllabus)

Via Zoom Class Time: 5:30-8PM

Instructors:

Stephen G Post, PhD (instructor of record)

Professor, Center for Medical Humanities, Compassionate Care & Bioethics

Stephen.Post@stonybrookmedicne.edu

Background

In this course we will examine in depth the topic of physician-assisted suicide (PAS). This will cover the history of suicide in philosophy from the Greeks to modernity; the origins of the Hippocratic denunciation and its influence; the evolution of the idea of “double effect”; contemporary arguments for and against PAS and physician-assisted euthanasia (PAE); the arguments from disability advocates; current physician attitudes and PAS practice in the U.S.; the views of the AMA, the AAHPMI, and other professional organizations; healthcare systems and the “incompatibility thesis”; comparative review of laws and legalization in the US and internationally; progressive dementia (film course? Disabilities syllabi section); advocacy organizations Dignitas & Hemlock Society;

U.S.: Treatment Refusal (legal)→Treatment Withdrawal (legal)→PAS (legal in OR, WA, and now various other states)→Euthanasia (illegal in all states). Treatment withdrawal and refusal can still be controversial in cases such as removal of artificial nutrition and hydration (e.g., patients with advanced dementia and stroke), though this is now widely practiced in many parts of the U.S. Treatment withdrawal also remains controversial in cases of patients who are not terminally ill (e.g., especially in patients with quadriplegia, severe cognitive developmental disabilities, etc.). But for the most part, treatment refusal and withdrawal are an accepted part of medical practice. The old distinction between “ordinary” (morally required) treatment and “extraordinary” (optional) treatment has largely been set aside in favor of a meaningful discussion of burdens, benefits, and patient goals.

Students will have differing ethical perspectives on PAS, but they should be clear on the legal prohibitions. PAS is legal in some states and in numerous countries around the world. It involves the active agency of the requesting individual. When the requesting individual is incapable of performing the final action leading to death, and relies on another person, this action is considered voluntary euthanasia, which constitutes legally culpable killing. If the individual is incapable of making the request, no one else can make it for him or her.

Course Objectives

1. Students will be able to discuss in detail how the ethics of suicide and PAS arose historically in the western world and within the Hippocratic tradition.
2. Students, through exploration of the long history of eugenic thought and practice, will gain an appreciation for disabled people and their allies as “generally” opposed to PAS.
3. Students will be able to explain and assess the current practice and law of PAS in the U.S., Canada, and Europe.

PLEASE BE SEARCHING THE LITERATURE FROM DECEMBER 2020 AND COMING UP WITH A TOPIC FOR YOUR 10-PAGE RESEARCH PAPER, DUE JANUARY 23.

Readings

There is one major text for this course: L.W. Sumner, *Physician-Assisted Death: What Everyone Needs to Know* (Oxford University Press, 2017, paperback). **This should be ordered immediately and read in large part before January 5, 2021.**

Course Calendar and Topics

January 5: Basic Concepts and Arguments: Is there such a thing as rational suicide? Aquinas and Freud, for example, considered all suicide irrational, while the Stoics and some Renaissance humanists affirmed its rationality at least in older adults or for those in intractable pain. Responses to this question vary greatly, and we need to begin with this fact.

Read “Senicide,” *Wikipedia*. This is a great resource. This brief article has a nice section on cultures, in which it lists url’s that I **want you to click on for each of about 10 cultures from the southern state of Tamil Nadu in India to Japan.** I will discuss my experiences 25 years ago in rural Japan near Miyagi-ken prefecture interviewing rice-farm families about the practice of senicide, which combines elements of Zen and the elimination of the frail elderly with dementia, usually at midnight under the full moon. This goes on despite the strong pan-Confucianist ethics of filial piety, which is surprising.

Read “Suicide,” from the *Stanford Encyclopedia of Philosophy* (2017)

We will cover this, and place some emphasis on the three reasons Thomas Aquinas gave against suicide in the *Summa*: stewardship, natural reason, & contagion (read page 6 in the article with special care, but read the whole article carefully). Is there a “spillover” effect so that suicide, which may be justifiable in cases of imminent death, becomes a “normative” “*Final Exit*” response to life’s challenges (for example, “going together”)?

Read “Voluntary Euthanasia,” from the *Stanford Encyclopedia of Philosophy* (2017).

Read “Doctrine of Double Effect,” from the *Stanford Encyclopedia of Philosophy* (2017)

Recognize how this idea arose from early medieval “just war theory,” which reluctantly justified the defense of innocent others from attackers so long as the intent is only to defend the innocent,

and never to kill the assailant. Similarly, a doctor only “intends” to relieve pain but not to shorten life. Can such a bi-furcation of “intentionality” be taken seriously? Perhaps. (For example, when extubating, the intent is not to kill the patient, but to relieve them of burdensome ventilator support and sedation. Should the patient continue breathing and even recover, they are cared for rather than extinguished.) Have you ever felt that “in effect” you assisted in a suicide in some clinical context? How did you feel about it? Do you accept this idea of “double effect”? Was your intentionality properly “bifurcated”?

Can you think of any examples of suicide that shine any light on these various philosophical positions? For example, does age make a difference? Is contagion a problem (how about the bridges over the ravine at Cornell, or the dorm roof at NYU). What about this linguistic maneuver from PAS to PAD (physician-assisted death)? Do you think suicide can be rational? Is it in any sense a “sin” and if so against what or whom? Does it become part of a family narrative, as with the Hemmingway’s?

Have you ever saved anyone from suicide? What did it feel like? (Encounter with Harry on the Golden Gate Bridge in the early morning haze. What did Steve “I-I” Jobs think of this episode? And there was a freshman student at Case Western who psychiatry allowed SGP to work with because he seemed so philosophically insightful about the emptiness in his life. (FYI, in the Netherlands “sadness” short of “depression” can justify PAS in special cases, like the loss of a child.)

January 7: Understanding the Hippocratic/Pythagorean Opposition

Review this website as fully as you can in depth: <https://euthanasia.procon.org/questions/do-euthanasia-and-physician-assisted-suicide-violate-the-hippocratic-oath/#quote-1163>

The medical profession has long condemned PAS and euthanasia. But this was not always so. The Hippocratic tradition/Oath opposes PAS and euthanasia in order to clearly distinguish the art of healing from that of killing. Historically, in ancient Greece, where suicide was quite acceptable (think Socrates), the medical profession did engage in PAS, and sometimes much too easily so as to suffer reputational loss. The Pythagorean physicians (a *strict minority* who wrote the Hippocratic Oath) wished to put forward the image of the doctor as healer rather than killer for largely esoteric dualistic religious reasons. Hence, the Oath (4th century BCE) reads, “I will neither give a deadly drug to anybody if asked for it, nor will I make a suggestion to this effect.” Religious reasons? The Pythagorean sect *believed that embodiment is the soul’s punishment, and an opportunity to indemnify past transgressions. Therefore, to free it from the body-as-prison is to violate the will of the gods and the justice of the universe.*

Yet does its prohibition of PAS nonetheless hold any timeless logical value regardless of its peculiar historical context? The most renowned conservative medical ethicist Leon Kass MD of the University of Chicago argues that it does hold value, but for reasons of a logical

contradiction between the healing and the killing arts. He suggests that doctors not engage in PAS (but perhaps we need a para-professional group to do this).

Read “Is there a Medical Ethic?” Leon Kass MD, from *Toward a More Natural Science* (Free Press, 1985).

In a real contrast to Kass, who has not actually practices medicine, we will do a deep dive into the thought and practice of Dr. Timothy Quill MD, one of the leading voices for PAS within the privacy of the physician-patient relationship (an estimated 20% of American physicians self-report PAS despite its illegality, and the numbers are growing).

Read Quill TE. Death and dignity: a case of individualized decision making. *N Engl J Med* 1991;324:691-694.

Read Quill TE, Lo B, Brock DW. Palliative options of last resort: a comparison of voluntarily stopping eating and drinking, terminal sedation, physician-assisted suicide, and voluntary active euthanasia. *JAMA* 1997;278:2099-2104.

Read Meier DE, Emmons C, Wallenstein S, Quill TE, Morrison RS. A national survey of physician-assisted suicide and euthanasia in the United States. *N Engl J Med* 1998;338:1193-1201.

View this brief video before class: Dr. Jack Kevorkian
<https://www.youtube.com/watch?v=BiZKY6FSfwA>

We will reflect a bit on Kevorkian and Quill, as they provide very different images. Who is a better advocate for PAS, Tim or Jack?

Case One (PAS): Dr. Kevorkian of Michigan proceeded with PAS on numerous occasions. His first “patient” (or “subject” or “victim”) was Janet Adkins, a 52-year-old high school civics teacher from Michigan. She had probable Alzheimer’s disease and was near the end of the mild stage, no longer able to read news articles or play her Chopin sonatas (she was an amateur pianist). Mrs. Adkins met with her husband and three independent adult sons, all of whom supported her wishes to die. She was a member of the Hemlock Society. With their help she went to Flint, Michigan, where she stepped into a rusting minivan behind a K-Mart. There she allows Dr. Kevorkian to place a butterfly needle in her arm, At the other end of the line was his “Mercy-tron Machine” (really just an IV connected to three bags of saline, the last of which contained the lethal chemical that would flow into her arm but only after she pushed the red release button). This was in the in the late 1980s. Kevorkian continued through the 1990s while the law in Michigan remained unclear. (In 1989 he applied for a professorship in our Bioethics Center at Case Med, but he did not get an interview.)

Case Two (Voluntary Euthanasia): Kevorkian was imprisoned only after his voluntary euthanasia of Thomas Youk, age 52, in the final stages of ALS (Amyotrophic lateral sclerosis / Lou Gehrig's disease), was aired on 20/20. In this case, Youk was unable to push the final red button on the Mercy-tron machine, in contrast to Janet Adkins. Thus, Kevorkian

slipped over from PAS to voluntary euthanasia. With Youk's permission, Kevorkian administered the controlled substance by lethal injection. For this voluntary euthanasia in which he was the direct agent of Youk's death, Kevorkian served 8 years in prison. Upon release, he gave a speech to 4,867 people at the University of Florida (2009), stating, "My aim was to end suffering. It's got to be decriminalized."

Sometime between January 8 and 11, view the movie "You Don't Know Jack" starring Al Pacino. Be ready to discuss a bit in class in January 12.

January 12: The Wild Oregonians and Beyond

Study with diligence Deathwithdignity.org, which covers current laws in the US.

Also, study "Assisted Suicide" in wiki is by far the most current source on legalization nationally and internationally.

Discussion of L.W. Sumner, *Physician-Assisted Death*.

January 13: Where are we Headed? The Future of Medicine

Google and read the American Academy of Hospice and Palliative Medicine "Position Statement on Physician-Assisted Death and google around for *at least five other statements* from professional medical and nursing organization. These statements often include commentary on "terminal sedation," and related practices.

Search around and try to come up with a journal article that you think nicely captures how we should be envisioning PAS and the future of clinical practice.

Discussion of L.W. Sumner, *Physician-Assisted Death*.

January 14: Progressive Neurological Conditions such as AD and ALS

Watch Before Class

Watch *Still Alice* before class, and write a **two-page reflection** (double-spaced) either for or against pre-emptive suicide (assisted or not) for people with progressive dementia. This should be polished and well-crafted. Try to give some attention the scene where Alice drops her bottle of pills. What was your response to this? Did you want to help her pick them up or not? Hand these in in hard copy at the end of class. (5 points).

Also, watch <https://www.youtube.com/watch?v=OJsbefxfVsg>

Discussion of the case of Janet Adkins, Dr. Kevokian's first subject.

Readings

Switzerland and the Netherlands

S.G. Post, “Two Roads Diverge: Assisted Suicide in Alzheimer’s Disease for a Research Subject,” pp. 6-9, In Response to E. Portacolone, K.E. Covinsky, J.K. Johnson, R.L. Rubinstein, J. Halpern, “Walking the Tightrope Between Study Participant Autonomy and Researcher Integrity: The Case of a Research Participant with Alzheimer’s Disease Pursuing Euthanasia in Switzerland,” *Journal of Empirical Research on Human Subject Research Ethics*, Vol. 14, No. 5, 2019, pp. 490-492.

Inez de Beaufort & S. van de Vathorst, “Dementia and Assisted Suicide and Euthanasia,” *J of Neurology*, Vol. 263, 2016, pp. 1463-1467.

Rebecca Dresser, “On Legalizing Physician-Assisted Death for Dementia,” *The Hastings Center Report*, July-August 2017, pp. 5-6.

Jakov Gather & Jochen Vollmann, “Physician-Assisted Suicide of Patients with Dementia: A Medical Ethical Analysis with a Special Focus on Patient Autonomy,” *Inter J of Law and Psychiatry*, Vol. 36, 2013, pp. 444-453.

Scott Y.H. Kim, et al., “Euthanasia and Assisted Suicide of Patients with Psychiatric Disorders in the Netherlands 2011-2014,” *JAMA Psychiatry*, Vol. 74, No. 4, pp. 362-368.

Joseph W. Shega, et al., “Palliative Excellence in Alzheimer Care Efforts (PEACE): A Program Description,” *J of Palliative Care*, Vol. 6, No. 2, 2003, pp. 315-320.

January 19: Disability Perspectives

Watch Before Class

www.NotDeadYet.org

NOT DEAD YET is a national grassroots disability rights organization that opposes legalization of assisted suicide and euthanasia as deadly forms of discrimination.

Disability Activists and PAS

We will clarify the historic tensions between disability rights and the bioethics movement. Go to www.NotDeadYet.org and examine their strong ethical stances against assisted suicide, euthanasia, futility, and various others issues that come up in bioethics debates.

We will have some discussion of Ouellette, eventually focusing on page 67, which does a fine job of summarizing various points of tension between the disabilities and bioethics movements. We will touch on this tension with reference to two pioneering disability leaders, Adienne Asch (1946-2013) and Wolf Wolfensberger (1934-2011), both of whom SGP knew and worked with. We will also touch upon Dr. Leo Alexander (author of the Nuremberg Code) and his famous article “Medicine Science under Dictatorship.”

Readings:

Dr. Leo Alexander (author of the Nuremberg Code) and his famous article “Medicine Science under Dictatorship,” Vol. 241, 1949, pp. 4139-47.

SG Post, page proofs for two chapters of *Dignity for Deeply Forgetful People* (The Johns Hopkins University Press, 2021, in press).

January 21: Eva Kittay Grand Rounds 4:30-6 Zoom

Discussion of L.W. Sumner, *Physician-Assisted Death*.

BIG QUESTIONS

Do you think that there is an ethical difference between treatment refusal and withdrawal? Legally there is no difference, but some physicians do make a distinction, perhaps because withdrawal is more psychologically complex because you feel an active hand in the process

Setting legal prohibitions aside for the sake of discussion, what is your personal position on PAS, and what is your professional position?

Would PAS erode the ethos of the medical profession as a healing art, as was clearly the primary reason for the prohibition against PAS being included in the Hippocratic Oath in ancient times? Would it be preferable for specially trained non-physicians to engage in PAS?

Could PAS be abused or misused? (Abuse is not obvious in Oregon or Washington, where the numbers of terminal patients availing themselves of it remain low. Yet in the Netherlands, PAS has shaded over into euthanasia both voluntary and nonvoluntary, and it has been performed for spouses with bereavement-related depression in response to loss their loved one.)

Is PAS a beacon of human freedom or an insult to human interdependence & community?

Is PAS (and perhaps suicide generally) an escape from the inevitable challenges of life in hard times?

Is PAS incompatible with social-financial commitment to hospice?

Is there a moral right to PAS? Is there a moral right to refuse to perform PAS as a doctor?

Grading

Attendance and participation 30%

10-page paper 65% Due January 23

Reflection on *Still Alice* 5%

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