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QUESTIONS ADDRESSED:

1. Why a death as described within the Oregon Death with Dignity Law is not a suicide
2. Why a psych eval is not required
3. How the process works in Oregon

WHY A DEATH AS DESCRIBED WITHIN THE OREGON DEATH WITH DIGNITY LAW IS NOT A SUICIDE

The definition of “suicide” is complex, consists of several components, and contains certain assumptions about the act itself. To understand the concept of suicide as related, or not, to the process involved in invoking the Oregon Death with Dignity Act, requires one to look at the way that a request to end one’s life when one has a terminal illness differs from the motivations and actions involved in suicide.

In clinical psychological work, the most common reason for a person to commit suicide is a result of depression and/or despair, sometimes with elements of impulsivity such as someone suddenly deciding to jump off a bridge. It can also result from bizarre ideation resulting from severe mental illness or organic malfunctioning of the brain to the extent that the person cannot clearly distinguish reality from non-reality.

In the Oregon Death with Dignity Act, there are several provisions embedded in the law to prevent an individual who is not capable of making reasonable and rational decisions, from taking their own life.

The term suicide, as used in common language, assumes that the person is not emotionally functioning well, for any of the above-stated reasons...and therefore, he/she should be protected and stopped from committing such an act.

As a psychologist, I treated depressed, suicidal, and brain-impaired individuals and have called 911 on several occasions in order to protect such people. We, as a professional, psychiatric/psychological, and medical community, want those people to be protected so that they have every chance to seek treatment, emerge from their despair, and survive long enough to have a long, full, and rich life.

But the scenario is different with the terminally ill.

The people for whom the Death with Dignity Law was written are not emotionally ill...nor are they malfunctioning emotionally...not from depression nor impulsivity nor organic brain problems. They are intellectually and emotionally functioning people with full capacity to make rational decisions about their life. They have the ability to understand the nature of their illness and what the future holds for them. The handwriting is on the wall and they can see it. They want some control over it. They want to not suffer. They want to spare their families the emotional burden of watching them be in unrelenting agony. And they want the ending of their lives to be peaceful. This is not an impulsive or thoughtless wish of aggression, revenge, or despair. This is a well-thought out decision where a person can reasonably predict what the future holds, and wants to create as positive an ending for themselves and their families as possible. This thinking is reality-based, rational, educated, non-impulsive, reasonable, and intentionally kind for all parties involved.

### IS A PSYCHOLOGICAL EVALUATION ALWAYS REQUIRED?

For most people a psychological evaluation is not required, nor is it necessary. Most people have a working relationship with their physician(s), and the physician knows their capacity for understanding their diagnosis, the ramifications of it, and their ability to think reasonably and make rational decisions. Physicians have access to medical records, many of which include any history of major mental disorders. And physicians frequently have access to, or know the family members of patients with longstanding terminal illness because the spouse or family member has been bringing them in for their visits and has been involved in their care. So in most cases, a psychological evaluation is not necessary because the assessment falls well within the physician's capacity to assess.

### HOW THE PROCESS WORKS IN OREGON

But sometimes a physician is unsure...sometimes he/she wants corroboration with another professional...sometimes he/she wants to make sure he didn't miss something...or sometimes there is a real question about a patient's competency or capacity or mental status.

Therefore, a psychiatric or psychological evaluation is called for when 1) a doctor is nervous about the law and wants validation from a mental health professional 2) when there is a question about the mental capability of the patient to make a reasonable decision 3) when there is a question about whether the patient has an underlying emotional problem such as depression or other mental "illnesses" or mental states that might be the reason for the request.

I have been called, in my capacity as a psychologist, to see or consult with patients who have wanted to invoke the Oregon Death with Dignity Law. I have decided that two did not fall within the constraints of the law. This became apparent after telephone consultations with the physician(s), obtaining medical history, and discussions with

caretakers or family members. These patients did not need to be seen. The others passed that first stage and were seen, evaluated, and allowed to invoke the law.

When I visit a patient, I am bound by the law that states: 1) a person must have a diagnosis of six months or less to live 2) be competent to understand ramifications of their request 3) not be depressed. I evaluate these components one by one, and begin with a consult with the referring physician to understand the reason for the request for the psychological consult and to understand the extent of the illness and the prognosis. An interview with the patient follows which includes a mental health evaluation to determine if the person is oriented, is thinking in accordance with reality, has reasonable intellectual capacity, and possesses the ability to do logical thinking. I directly evaluate depression and any history of depression. I meet with family members and/or caretakers who can corroborate or disagree with what the patient has told me. I am looking for consistencies and discrepancies, if any. Sometimes a decision can be made within an hour or two. Sometimes several additional phone calls to family members or physicians are needed until the necessary information is obtained and a report can be written.

Once a determination has been made that the person legally qualifies to invoke the law, I let them know, and we can move onto discussing any questions or concerns they have. Some people just feel immensely relieved to be done with the long legal process it takes to invoke the law. They know, and have known for some time, what they want and how to proceed. For them there are no conflicts...just relief. For others, they then have time to discuss any concerns or questions.

One woman I visited who was totally bedridden due to advanced stage cancer. She was absolutely certain she wanted to invoke the law, and was mentally intelligent and capable. Her family wasn't creating problem, nor was she, but one of her caretakers who had become emotionally attached to her, was having difficulty letting go. The caretaker simply needed reassurance that the woman was rational in making her decision.

Another woman talked about her concern for a son who, she worried, might choose to not be at her bedside because of his religious beliefs. We discussed ways she might approach the issue with him; she called me a week later to report that they had resolved the issue and he had agreed. She..and he...had found a way to create a setting for a sweet and peaceful death for her so she could have all of her loved ones surrounding her. It was good for her, and good for all the family since emotional issues were able to be resolved before she died. I have seen so many families where differences of opinion are not talked out, and resentments and guilt can get passed down the generations. This woman, with her simple questions and courage, allowed for a very different legacy - that of mutual respect, the possibility of resolution in the face of differing opinions, and the importance of peaceful resolutions to differences especially at critical moments in our lives.

I have absolutely no question in my mind as to the importance of this law...the legitimate legality of it, and the humanity and kindness contained in it.

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Psychologist

Dr. Ruth Friedel is a psychologist who has been in private practice since 1987 in Portland, Oregon. She has been adjunct faculty at OHSU Department of Psychiatry, Pacific University Departments of Psychology and Physical Therapy, Interim Executive Director of Jewish Family & Child Service, a Physical Therapist and Teacher for 10 years at Bronx Municipal Hospital Center & other New York City hospitals. She received a B.S. degree in Physical Therapy from Ithaca College, an M.A. in Psychology from NYU, and a Psy.D. degree in Psychology from Pacific University.