

Short Communication

Regulating Death: A Brief History of Medical Assistance in Dying

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ABSTRACT

Unique reports of suicide and euthanasia date back more than 2 millennia, reflecting evolving philosophies of death and dying as expressions of the mores dominating a given era. One longstanding theme in the history of decisions to die has been staunch opposition founded in religious claims that one's body is a trust from the divine (and therefore not wholly in their ownership). The role of the physician has also been traditionally estranged from participation in such decisions, dating back to rudimentary conceptions of medical ethics in the Hippocratic notion *primum non nocere* (first, do no harm). However, fundamental principles in the modern philosophy of medicine lend support to the idea that physicians can be justified in actions which cause some harm, in so far as they are acting to fulfil a greater ethical imperative. This brief historical review explores the inception of modern North American medical assistance in dying (MAiD) policy through a series of critical case studies in the unfolding of its practice. Medically assisted dying has presently been legalised in Canada and some United States jurisdictions, but with critical caveats surrounding circumstances of mature minors, advance directives and mental illness as participants' sole underlying medical condition. While the modern regulations surrounding MAiD continue to take shape, the palliative care community is well-positioned to both guide and scrutinise the ethics of this practice.

Keywords: History, Medical assistance in dying, Philosophy of dying, Euthanasia, Suicide

In Athens, 399 BCE, the Greek philosopher Socrates – imprisoned and sentenced to death by hemlock on the charges of impiety and corrupting Athenian youth – famously raised a cup of the poison to his lips.^[1] Descriptions of Socrates' equanimity at the end of his life, and of his refusal to escape this fate when the opportunity presented itself, have invited the question of whether Socrates' death was a case of euthanasia or suicide.^[2] The distinction may seem peripheral, but we can imagine it likely to have been an important consideration for both Socrates and the jailer who provided his poison.

Medical assistance in dying (MAiD) is a modern name for an ancient idea, which has been a source of enduring contention for ethicists since the days of hemlock. The tools for suicide, euthanasia, and the expansive grey area between the two (ostensibly including MAiD) have evolved dramatically, but many fundamental questions have remained the same: who owns a life, and what are the ethical implications in advancing (or otherwise choosing not to delay) a death? The present article cannot, given its commitment to brevity, claim to offer a complete history of MAiD. Instead, it aims to introduce some of the answers to these questions through a historical lens by presenting a background for the philosophies of

assisted dying, followed by several landmark cases in MAiD's development. This abbreviated history of MAiD's practice portrays how we can appreciate medical decisions regarding death and dying as expressions of the mores dominating any given era.

The Hippocratic Oath appears to contain a specific condemnation of MAiD: "(...) I will not give a drug that is deadly to anyone if asked (for it), nor will I suggest the way to such a counsel."^[3] Ancient Greek and Roman physicians did, nevertheless, sometimes offer such drugs to their patients for the purpose of euthanasia.^[4] However, in the centuries to follow, many major religions opposed euthanasia for a variety of reasons. Among these were notions that life was a trust from God, and to shorten or prolong it would interfere with God's plan; that artificially shortening life could preclude admission to the afterlife or reincarnation; and that suffering may have a divine purpose which ought to be accepted.^[5] St. Thomas Aquinas condemned suicide on behalf of the Christian church in the 13th century, claiming that its completion interferes with the natural inclination of self-perpetuation, injures communities, and violates God's authority.^[6] Common Law similarly forbade suicide and physician-assisted suicide (PAS) in the British

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