

The Boston Globe

OREGON'S VITAL EXPERIMENT

Date: April 26, 2004 **Page:** A12 **Section:** Editorial

OREGON IS fulfilling the traditional role of states as laboratories of democracy on a controversial issue that affects many Americans: whether physicians should be allowed to assist the terminally ill in taking their own lives. Whatever residents of other states think about physician-assisted suicide, they will benefit from observing the Oregon experiment, which the federal government should stop trying to impede.

In 2001, after two referendums by Oregon voters in favor of their law, US Attorney General John Ashcroft moved to have the Drug Enforcement Administration revoke the license of any doctor who prescribes a drug to assist a patient's suicide. A federal district court enjoined Ashcroft's action, and last May a three-judge panel heard arguments on it. It would be regrettable if that panel or a higher court ruled in a way that undermined the Oregon law. If left unimpeded, Oregon can provide lessons on this approach to end-of-life choices. Under the law, patients can arrange their own deaths if two doctors agree that the patient has less than six months to live, is capable of making health care decisions, and has voluntarily chosen to die. No physician is required to participate. Believers of many different faiths have opposed the Oregon approach as an interference with divine law, and it is also opposed by many physicians' organizations.

In the six years the law has been in effect, 265 Oregonians have made use of it, according to the Compassion in Dying Federation, which supports the law. But of those 265, only 171 have actually taken medication to end their lives. For many of the others, said the federation's president, Barbara Coombs Lee, the availability of lethal medication is a "safety net" or "parachute" that gives patients ease of mind. More than pain, it is fear of loss of independence and control over bodily functions, especially thinking, that drives patients to use the law.

In 1997, the Supreme Court ruled there is no constitutional right to assisted suicide and upheld two state bans on the practice. At the same time, the court affirmed the right of states to pass laws like Oregon's. Justice Sandra Day O'Connor specifically referred to the "laboratory of democracy" function of states as places to experiment with new ways of dealing with complicated issues.

Opponents of the Oregon law have also tried to persuade Congress to pass legislation that would effectively ban it. But Congress, like the Supreme Court, has seen the value in allowing Oregon or other states to try out this approach. Lawmakers know that any legislation would put the Justice Department in the position of second-guessing thousands of physicians' decisions about medication every day. That would also be the effect of Ashcroft's order to the DEA that the circuit court panel is now weighing. The judges should let Oregon's experiment with end-of-life choices go on.