

# History of the End-of-Life Choice Movement

## 1967

A right-to-die bill is introduced in the Florida legislature, arousing extensive debate, but ultimately is unsuccessful.

## 1971

Hospice, Inc. was founded in the United States.

## 1980

The Hemlock Society, an end-of-life care organization for those suffering with incurable illnesses, forms. It later evolves into End-of-Life Choices, which in 2005 merges with Compassion in Dying to form Compassion & Choices, the largest organization in the United States advocating for people's rights at the end of life.

## 1990

The U.S. Supreme Court rules in *Cruzan v. Director, Missouri Department of Health*, affirming the right of Americans to refuse unwanted medical treatment and their right to appoint a healthcare proxy to speak for them when they cannot.<sup>1</sup>

## 1994

Compassion in Dying develops and files two federal lawsuits -- *Glucksberg v. Washington*<sup>2</sup> and *Quill v. NY*<sup>3</sup> -- asserting that a mentally capable, terminally ill patient has a right protected by the U.S. Constitution's guarantees of liberty, privacy and equal protection to choose aid in dying. The Federal District Court for the Western District of Washington rules that this right exists. The state of Washington appeals the decision to the Ninth Circuit Court of Appeals.

Compassion & Choices is the leading nonprofit organization working to improve care and expand choice at the end-of-life. For more than 30 years we have worked to change attitudes, practices and policies so that everyone can access the information and options they need to have more control and comfort at the end of life.

Oregon voters approve the Oregon Death With Dignity Act, a ballot initiative that permits terminally ill patients, under specified standards, to obtain a physician's prescription to shorten the dying process in a humane and dignified manner. The measure passes with 51 percent of the vote.<sup>4</sup>

## 1996

The Ninth Circuit Court of Appeals (in *Glucksberg v. Washington*)<sup>5</sup> and the Second Circuit Court of Appeals (in *Quill v. NY*)<sup>6</sup> both decide that the U.S. Constitution protects the choice of a capable, terminally ill patient to choose aid in dying. The states of New York and Washington appeal the decision in the U.S. Supreme Court.

## 1997

The National Right-to-Life Committee challenges Oregon's Death With Dignity Act, stalling implementation until the challenge is dismissed by the Ninth Circuit Court of Appeals. The Oregon legislature puts a measure on the ballot to rescind the law, but it is defeated by 60 percent of the voters. Later that year, Compassion in Dying client "Helen" becomes the first person to use the law to die peacefully.

In *Glucksberg v. Washington*<sup>7</sup> and *Attorney General Vacco of New York v. Quill*<sup>8</sup>, the U.S. Supreme Court declines to find federal constitutional protection for aid in dying and refers the issue to the states. However, the court recognizes a federal constitutional right for dying patients to receive as much pain medication as necessary to obtain relief, even if this advances time of death.

## 2001

Compassion & Choices represents the Bergman family of California in bringing the nation's first case to claim that failure to treat pain adequately constitutes elder abuse, winning a \$1.5M verdict for patient's pain and suffering. The case establishes that failure to treat pain adequately can result in significant financial risk to healthcare providers.<sup>9</sup>

## 2002

Attorney General John Ashcroft issued a directive in 2001 to prevent the Oregon Death With Dignity Act from being implemented. The state of Oregon sued to stop the directive, joined by a group of terminally ill Oregonians and represented by Compassion & Choices. Federal District Court Judge Robert E. Jones in *Oregon v. Ashcroft*<sup>10</sup> rules against the Ashcroft directive rebuking the federal government for its attempt to "stifle an ongoing, earnest and profound debate in the various states" concerning aid in dying.

## 2004

The State of Oregon asks the United States Ninth Circuit Court of Appeals in *Oregon v. Ashcroft* to affirm the lower court decision, which it does, leaving the Oregon Death With Dignity Act intact.<sup>11</sup>

## 2006

Medical associations begin to adopt policies that support aid in dying, including The American Women's Medical Association, the American Public Health Association and The American Medical Students' Association.

## 2008

On November 4, Washington voters overwhelmingly approve by ballot measure the Death With Dignity Act by a margin of 59% to 41%. Washington becomes the second state to authorize aid in dying.<sup>12</sup>

In December, Montana District Court Judge Dorothy McCarter holds that the Montana Constitution protects a peaceful death with dignity, making Montana the third state to authorize legal aid in dying.<sup>13</sup>

## 2009

On December 31, the Montana Supreme Court rules in favor of the landmark case brought by Compassion & Choices (*Baxter v. Montana*), affirming that it is not against Montana public policy for a physician to provide medical aid in dying to a mentally capable, terminally ill individual.<sup>15</sup>

## 2010

New York passes the Palliative Care Information Act (PCIA) in August. The law, drafted by Compassion & Choices and modeled after a similar measure in California, requires healthcare workers to provide information and counseling on end-of-life options.<sup>15</sup>

## 2011

The U.S. Conference of Catholic Bishops (USCCB) issues its first official statement condemning aid in dying. Compassion & Choices responds by holding a press conference on the same day, in the same building, refuting the USCCB's false claims throughout national media.<sup>16</sup>

Award-winning documentary about Oregon's Death With Dignity Act, *How to Die in Oregon*, is released, featuring Compassion & Choices clients.<sup>17</sup>

## 2012

Compassion & Choices becomes a member in the Leadership Conference on Civil and Human Rights, the nation's premier coalition promoting and protecting civil and human rights in the United States.

## 2013

On May 20, Vermont becomes the fourth state to authorize aid in dying and the first in the nation to do so through the legislature.<sup>18</sup>

In December, Compassion & Choices joins with aging-focused organizations, healthcare reform groups and legal experts to launch the Campaign to End Unwanted Medical Treatment.<sup>19</sup>

## 2014

On January 14, medical aid in dying is authorized in New Mexico due to a lawsuit filed jointly by Compassion & Choices and the American Civil Liberties Union. In her ruling, the presiding judge writes, "This court cannot envision a right more fundamental, more private or more integral to the liberty, safety and happiness of a New Mexican than the right of a competent, terminally ill patient to choose aid in dying."<sup>20</sup>

Compassion & Choices releases a national poll showing that 25 million people per year experience unwanted medical treatment.<sup>21</sup>

A Pennsylvania judge dismisses all charges against Barbara Mancini, who was arrested for handing her dying father his prescription morphine. The Pennsylvania Attorney General charged Barbara Mancini for assisting the death of her 93-year-old, terminally ill father whom Barbara was caring for while he was on at-home hospice care. Compassion & Choices ignites a nationwide discussion on end-of-life autonomy through its campaign to have the charges dropped.<sup>22</sup>

The Institute of Medicine of The National Academies releases "Dying in America: Improving Quality and Honoring Individual Preferences Near the End of Life". Compassion & Choices conducted educational briefings and commissioned policy papers in support of the report's recommendations.<sup>23</sup>

Brittany Maynard, a terminally ill 29-year-old Californian, releases a video as part of a transformative joint campaign with Compassion & Choices to expand access to medical aid in dying in California and nationwide. The video garners 9 million views in its first three weeks on YouTube, and coverage from every major news outlet catalyzes not only a nationwide conversation on death with dignity but more than two dozen aid-in-dying bills introduced in state legislatures around the country.<sup>24</sup>

## 2015

Twenty-five state legislatures and the District of Columbia introduce medical aid-in-dying bills.<sup>25</sup>

U.S. Senators Mark Warner (D-VA) and Johnny Isakson (R-GA) introduce the bipartisan Care Planning Act of 2015, which would create a Medicare benefit for people facing grave illness to work with their doctor to document their personal goals for treatment. Compassion & Choices endorsed this legislation.<sup>26</sup>

The California Medical Association drops its 28-year opposition to medical aid in dying by taking a neutral position on the End of Life Option Act.<sup>27</sup>

The New Mexico Court of Appeals issues a decision on Aug 11, 2015, finding that there is no fundamental right to aid in dying in New Mexico, reversing the decision of District Judge Nash's 2014 ruling.<sup>28</sup>

California becomes the fifth state to authorize medical aid in dying by passing the End of Life Option Act and thereby providing a total of 16%

percent of the U.S. population access to the full range of end-of-life care options.<sup>29</sup>

The Centers for Medicare & Medicaid Services issues a rule to reimburse doctors for advance planning and end-of-life conversations after successful advocacy by Compassion & Choices and other aging and healthcare organizations.<sup>30</sup>

## Resources

- <sup>1</sup>Cruzan v. Director, Missouri Department of Health 497 U.S. 261 (1990)  
[https://scholar.google.com/scholar\\_case?case=8467471114673973761&hl=en&as\\_sdt=6&as\\_vis=1&oi=scholar](https://scholar.google.com/scholar_case?case=8467471114673973761&hl=en&as_sdt=6&as_vis=1&oi=scholar)
- <sup>2</sup>Washington v. Glucksberg, 850 F.Supp. 1454 (1994)  
[https://scholar.google.com/scholar\\_case?case=14670486427381482828&hl=en&as\\_sdt=6,38](https://scholar.google.com/scholar_case?case=14670486427381482828&hl=en&as_sdt=6,38)
- <sup>3</sup>Quill v. NY, 870 F.Supp. 78 (1994)  
[https://scholar.google.com/scholar\\_case?case=3517468751551118375&hl=en&as\\_sdt=6,38](https://scholar.google.com/scholar_case?case=3517468751551118375&hl=en&as_sdt=6,38)
- <sup>4</sup>Department of Human Resources Oregon Health Division Center for Disease Prevention and Epidemiology. *Oregon's Death with Dignity Act: The First Year's Experience*. February 18, 1999.  
<https://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Documents/year1.pdf>
- <sup>5</sup>Compassion in Dying v. Washington, 79 F.3d 790 (1996)  
[https://scholar.google.com/scholar\\_case?case=16022278741236628449&hl=en&as\\_sdt=6,38](https://scholar.google.com/scholar_case?case=16022278741236628449&hl=en&as_sdt=6,38)
- <sup>6</sup>Quill v. NY., 80 F.3d 716 (1996)  
[https://scholar.google.com/scholar\\_case?case=524258359137515638&hl=en&as\\_sdt=5,38&scioldt=6,38](https://scholar.google.com/scholar_case?case=524258359137515638&hl=en&as_sdt=5,38&scioldt=6,38)
- <sup>7</sup>Washington v. Glucksberg, 521 US 702 (1997)  
[https://scholar.google.com/scholar\\_case?case=17920279791882194984&hl=en&as\\_sdt=6&as\\_vis=1&oi=scholar](https://scholar.google.com/scholar_case?case=17920279791882194984&hl=en&as_sdt=6&as_vis=1&oi=scholar)
- <sup>8</sup>Vacco v. Quill, 521 U.S. 793 (1997)  
[https://scholar.google.com/scholar\\_case?case=10644975876581235704&hl=en&as\\_sdt=6,38](https://scholar.google.com/scholar_case?case=10644975876581235704&hl=en&as_sdt=6,38)
- <sup>9</sup>Rich, Ben A., *Physicians' legal duty to relieve suffering*. West J Med. 2001 Sep; 175(3): 151–152.  
<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1071521/>
- <sup>10</sup>Oregon v. Ashcroft, 192 F. Supp. 2d 1077 (2002) [http://scholar.google.com/scholar\\_case?case=17507293978677110948&hl=en&as\\_sdt=6&as\\_vis=1&oi=scholar](http://scholar.google.com/scholar_case?case=17507293978677110948&hl=en&as_sdt=6&as_vis=1&oi=scholar)
- <sup>11</sup>Oregon v.s Ashcoft, 368 F.3d 1118 (2004)  
[https://scholar.google.com/scholar\\_case?case=6864220915455147792&hl=en&as\\_sdt=6,38](https://scholar.google.com/scholar_case?case=6864220915455147792&hl=en&as_sdt=6,38)
- <sup>12</sup>Washington Death With Dignity Act. Complete Chapter 70.245 RCW. Enacted November 2008. Available from:  
[http://www.wsha.org/wp-content/uploads/Death-with-Dignity\\_i1000-text.pdf](http://www.wsha.org/wp-content/uploads/Death-with-Dignity_i1000-text.pdf).
- <sup>13</sup>Baxter v Montana. District Court Ruling Available from <https://www.compassionandchoices.org/userfiles/Judge-Dorothy-McCarters-Decision.pdf>

<sup>14</sup>Baxter v. Montana. Supreme Court of Montana, 224 P.3d 1211 (2009).

[https://scholar.google.com/scholar\\_case?case=1689304237166933790&hl=en&as\\_sdt=6,38](https://scholar.google.com/scholar_case?case=1689304237166933790&hl=en&as_sdt=6,38)

<sup>15</sup>New York State Assembly. New York Public Health Law § 2997-c. Palliative care patient information.

[http://assembly.state.ny.us/leg/?default\\_fld=&bn=A07617&term=2009&Text=Y](http://assembly.state.ny.us/leg/?default_fld=&bn=A07617&term=2009&Text=Y)

<sup>16</sup>Compassion & Choices media release, June 16, 2011.

Available from

<https://drive.google.com/file/d/0B3luDjCAxxv7NUdvWDIFNFE2LUc1bDRDUHN5UHNkSzJRMek0/view?usp=sharing>

<sup>17</sup>How to Die in Oregon website. Available from

<http://www.howtodieinoregon.com/>

<sup>18</sup>Vermont Patient Choice and Control at the End of Life Act.

Act 039, Chapter 113. Enacted May 2013. Available from:

<http://www.leg.state.vt.us/docs/2014/Acts/ACT039.pdf>.

<sup>19</sup>Powerful Coalition Forms to Advance the Campaign to End Unwanted Medical Treatment. December 12, 2013. Available from

<https://www.compassionandchoices.org/2013/12/12/powerful-coalition-forms-to-advance-the-campaign-to-end-unwanted-medical-treatment/>

<sup>20</sup>Morris v. Brandenburg, D-202-CV-2012-02909

(2014). <https://www.compassionandchoices.org/userfiles/Morris-Trial-Court-Opinion.cc.pdf>

<sup>21</sup>25 Million Older Americans Have Experienced Unwanted or Excessive Medical Treatment, Survey Suggests. July 29, 2014. Available from

<https://www.compassionandchoices.org/2014/07/29/25-million-older-americans-have-experienced-unwanted-or-excessive-medical-treatment-survey-suggests/>

<sup>22</sup>Judge Dismisses Assisted Suicide Case Against Pennsylvania Nurse. Feb. 12, 2014. Available from

<http://www.npr.org/sections/health-shots/2014/02/12/275913772/judge-dismisses-assisted-suicide-case-against-pennsylvania-nurse>

<sup>23</sup>Institute of Medicine Report on Dying in U.S. Praised by End-of-Life Choice Organization. Sept. 17, 2014. Available from

<https://www.compassionandchoices.org/2014/09/17/institute-of-medicine-report-on-dying-in-u-s-praised-by-end-of-life-choice-organization/>

<sup>24</sup>Brittany Maynard Family, Compassion & Choices Making End-of-Life Care Progress, March 10, 2015. Available from

<https://www.compassionandchoices.org/2015/03/10/brittany-maynard-family-compassion-choices-making-end-of-life-care-progress/>

<sup>25</sup>Compassion & Choices Celebrates Day of Gratitude in Honor of Brittany Maynard's Birthday. Nov. 19, 2015. Available from <https://www.compassionandchoices.org/2015/11/19/compassion-choices-celebrates-day-of-gratitude-in-honor-of-brittany-maynards-birthday/>

<sup>26</sup>Warner, Isakson Introduce Bipartisan Bill to Improve Planning Options for Patients with Advanced Illness. June 10, 2015.

Available from

<http://www.warner.senate.gov/public/index.cfm/2015/6/warner-isakson-introduce-bipartisan-bill-to-improve-planning-options-for-patients-with-advanced-illness>

<sup>27</sup>California Medical Association removes opposition to physician aid-in-dying bill. May 20, 2015. Available from

<http://www.cmanet.org/news/press-detail/?article=california-medical-association-removes>

<sup>28</sup>Morris v. Brandenburg, 33,630 (N.M. Ct. App. 2015)

<https://www.aclu-nm.org/wp-content/uploads/2015/08/Morris-Writ-endorsed-no-signature-08-19-15.pdf>

<sup>29</sup>California End of Life Option Act. ABX2-15 End of life.

Enacted October 2015. Available from:

[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201520162AB15](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520162AB15)

<sup>30</sup>CMS Allows Reimbursement for Advance Planning. November 6, 2015. Available from

<https://www.compassionandchoices.org/2015/11/06/cms-allows-reimbursement-for-advance-planning/>