

OREGON PUBLIC HEALTH DIVISION • OREGON HEALTH AUTHORITY

OREGON'S DEATH WITH DIGNITY ACT: THIRTEEN YEARS

Oregon's Death with Dignity Act (ORS 127.800-127.995), enacted in late 1997, allows terminally-ill adult Oregonians to obtain and use prescriptions from their physicians for self-administered, lethal doses of medications. The law requires the Public Health Division to monitor compliance with the law and issuance an annual report.

The first prescriptions and deaths under the Death with Dignity Act (DWDA) were in 1998, with 24 prescriptions written and 16 deaths. At the end of 2010, a total of 821 prescriptions had been written and 525 patients had died from ingesting medications prescribed under the DWDA. Oregon was initially the only state in the nation to legalize physician-assisted death. However, in November 2008 Washington state also passed a Death with Dignity Act, which became law in March 2009. We previously published trends over the first 10 years the law was in effect.¹ This issue of the *CD Summary* presents data from 2010 and also examines the larger trends seen over thirteen years of the DWDA.*

2010 PRESCRIPTIONS AND DEATHS

In 2010, 97[†] prescriptions for lethal medications were written under the provisions of the DWDA, compared to 95 written during 2009. Of the 97 patients for whom prescriptions were written during 2010, 59 died from ingesting the medications. In addition, six patients with prescriptions written during previous years ingested the medications and died during 2010 for a total of 65 known 2010 DWDA deaths. This corresponds to an estimated 20.9 DWDA deaths per 10,000 total deaths. Fifty-nine (59) physicians

* See <http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Documents/year13.pdf>

† The 2010 report lists only the 96 prescriptions reported as of January 7, 2011. One additional prescription written in 2010 was received after the date of the report.

wrote the 97 prescriptions in 2010, with number of prescriptions per physician ranging from one to 11.

PATIENT CHARACTERISTICS

Demographic characteristics have remained relatively unchanged over the thirteen years of the DWDA. Of the 65 patients who died under DWDA in 2010, most (70.8%) were over age 65; the median age was 72 years. As in previous years, most decedents in 2010 were white (100%), well-educated (42.2% had a least a baccalaureate degree), had cancer (78.5%), or amyotrophic lateral sclerosis (11%).

Patients who participated in the DWDA have different demographic characteristics and underlying causes of death than other Oregonian decedents. During the first 10 years, 65% of DWDA decedents were ≥65 years of age compared to 78% of other decedents; 41% of DWDA decedents had a college degree or greater compared to 14% of other decedents; and 82% of DWDA decedents had cancer as an underlying disease compared to 24% of other decedents.²

END OF LIFE CONCERNS

As in previous years, the most frequently mentioned end-of-life concerns among those who died in

2010 were loss of autonomy (93.8%), decreasing ability to participate in activities that made life enjoyable (93.8%), and loss of dignity (78.5%). When looking at data over time, the number of patients concerned with loss of autonomy and decreasing ability to participate in enjoyable activities has trended upward since 1998. Concerns about loss of autonomy increased from 75.0% in 1998 to 93.8% in 2010 (p <0.001[‡]), and concerns about decreased ability to participate in enjoyable activities increased from 68.8% in 1998 to 93.8% in 2010 (p=0.004).

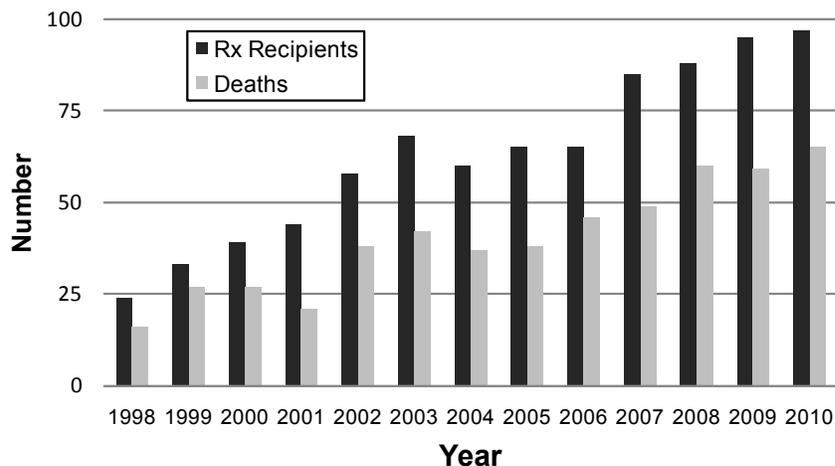
END OF LIFE CARE

Most patients who died in 2010 were enrolled in hospice care at time of death (92.6%). This percentage has also increased over the past thirteen years. As comparison, 73.3% of patients were enrolled in hospice at time of death in 1998 (p = 0.01).

Conversely, the number of prescribing physicians present at death has trended downward over time, from a high of 48.1% in 1999 to lows of 1.7 and 9.2% (2009 and 2010, respectively) (p<0.001).

In 2010, as in all prior years, most patients who died had some form of health care insurance (96.7%).

Number of DWDA Prescription Recipients and Deaths, by year, Oregon, 1998–2010



‡ All p values based on chi square test for trend.



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Overview of DWDA Requirements (OAR 333-009-0010 through 0030)

Required forms:

Due within 7 days of writing prescription

- Patient's written request/consent
- Attending physician compliance
- Consulting physician compliance
- Psychiatric/Psychological consultant compliance (if applicable)

Due within 10 days after dispensing medications

- Pharmacy Dispensing Record

Due within 10 days of patient's death:

- Attending physician follow-up

Required waiting periods:

- ≥15 days between patient's first and second oral request.
- ≥15 days between patient's first oral request and writing prescription.
- ≥48 hours between patient's written consent and writing the prescription.

*All forms can be found at <http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Pages/pasforms.aspx>

DWDA PROCESS

The number of patients referred for a psychological evaluation has decreased over time from 43.5% in 1999 to only one of 65 patients (1.5%) in 2010 ($p < 0.001$).

The number of patients ingesting the lethal medication within two weeks of the physician writing the prescription has also generally

trended downward. In 1998, 81.3% of patients ingested the medication within two weeks of the prescription being written, compared to 52.3% in 2010 ($p = 0.003$).

Procedure revision was made mid-year in 2010 to standardize reporting on the follow-up questionnaire. The new procedure accepts information about time of and circumstances surrounding death only when the physician or another health care provider was present at the time of death. Due to this change, data on time from ingestion to death is available for only 32 of the 65 deaths in 2010. Of those 32 patients, time from ingestion until death ranged from 5 minutes to 2.2 days (53 hours).

During 2010, one referral was made to the Oregon Medical Board for failing to wait 48 hours between the patient's written request and writing the prescription. Including the one case in 2010, there have been a total of 22 reports filed with the Oregon Medical Board since 1998.

FAILED INGESTIONS

Two of the patients who took the medications during 2010 did not die after ingestion, but died later from their underlying illness. One of the two patients who awoke after ingesting the medication regained consciousness within 24 hours after ingestion and died of their underlying illness five days later; the other gained consciousness 3 ½ days after ingestion and died of their underlying illness three months later. Regurgitation was reported in both instances. Including the two 2010 cases, there have been

three failed ingestions since 1998, with the first occurring in 2005.

SUMMARY

Moving forward, it is important that physicians continue to complete required forms. In addition to being required by law, these forms provide the data necessary to monitor implementation and compliance of the Act. Also, these forms serve as documentation that can provide legal protection to participating physicians and patients.

FOR MORE INFORMATION

All information on the Death with Dignity Act, including reporting requirements, forms, annual reports, and other publications can be found on the Health Division's web site <http://public.health.oregon.gov/>.

REFERENCES

1. Hedberg K, Hopkins D, Leman R, Kohn M. The 10-year experience of Oregon's Death with Dignity Act: 1988-2007. *J Clin Ethics* 2009;20:1-10.
2. Hedberg K, Tolles S. Putting Oregon's Death with Dignity Act in perspective: Characteristics of decedents who did not participate. *J Clin Ethics* 2009;20:11-13.

Notice the long URLs?

The Oregon Health Authority's Public Health Division web site has been reorganized by topic rather than organizational structure which should hopefully make it easier for you to find health information. Happy surfing! Visit <http://public.health.oregon.gov/>.