DIE ANOTHER DAY: THE INEFFECTIVENESS OF MEDICAL AID IN DYING LEGISLATION

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I. INTRODUCTION

In 2014, a Washington hospice patient diagnosed with terminal brain cancer repeatedly requested assistance in ending his own life.[1] He had few options for relief despite facing overwhelming amounts of impending pain.[2] However, his physicians and other medical professionals refused to assist with his request, declining to provide him with information about end of life options or refer him to resources that could help him.[3] Desperate for a solution, unable to find assistance, and facing a grim and painful future, "[h]e climbed into a bathtub and shot himself with a gun."[4]

This unnamed patient was legally entitled to receive the information and aid that he requested.[5] However, his hospice care was affiliated with a Catholic health care network and the medical professionals charged with his care feared retaliation if they provided him with the information he sought.[6] The information about this case is limited and is only public record because one of the patient's hospice nurses was so frustrated by this tragic event, they filed a complaint with the state's Department of Health.[7] The department found no wrongdoing by the medical professionals or hospice provider, which is indicative of a significant issue facing the American health care system, one that involves the ability of religious health care institutions to deny medical assistance based on religious beliefs. While this injustice appears at first glance a clear violation of the law,

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[1] Katherine Stewart, *At Catholic Hospitals, A 'Right to Life' but Not a Right to Death*, THE NATION (Oct. 8, 2015), https://www.thenation.com/article/at-catholic-hospitals-a-right-to-life-but-not-a-right-to-death/.

[2] *Id.*

[3] *Id.*

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] Stewart, *supra* note 1.

it is authorized by almost all state legislation governing medical end of life options.[8]

Medical aid in dying (MAID) legislation has received substantial and divisive attention; however, as evidenced by the unnamed Washington patient, it may be more problematic than currently perceived. MAID involves easing the pain and suffering of someone with a terminal prognosis who chooses not to prolong the already difficult dying process.[9] Despite the misnomers "assisted suicide" and "euthanasia" that are often accompanied by allusions to the controversial Jack Kevorkian, MAID has received a swelling of support since its original introduction in the 1980s.[10] With the efforts of nonprofit organizations combined with proactive state legislation, MAID has been shedding its negative connotations.[11] However, this palliative legislation has a large group of detractors: religiously-

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[8] *See, e.g.*, End of Life Option Act, CAL. HEALTH & SAFETY CODE §§ 443.1-.22 (West 2019); Medical Aid in Dying for the Terminally Ill Act, N.J. STAT. ANN. §§ 26:16-1 to -20 (West 2019); Patient Choice at End of Life, VT. STAT. ANN. tit 18., §§ 5281-5293 (2019); Colorado End of Life Options Act, COLO. REV. STAT. §§ 25-48-101 to -123 (2016).

[9] *Compassion and Choices Frequently Asked Questions,* COMPASSION & CHOICES, https://compassionandchoices.org/resource/frequently-asked-questions/#question-1 [hereinafter *Compassion and Choices*].

[10] Dr. Jack Kevorkian is oft referred to as the catalyst for the medical aid in dying movement. Kevorkian was as controversial a figure as one could be at the time, earning the nickname of "Dr. Death" coined by the press. Kevorkian is known for traveling around the country, assisting patients with MAID medication in his van throughout the 1990s. His unique personality and fierce advocacy for the terminally ill led him to be credited with expanding hospice care and shedding light on the need for MAID. He helped spur Oregon's legislation and performed over 130 assisted suicides. However, he was convicted of second-degree murder and spent eight years in prison. Regardless of supporters and critics feelings about him, many admit that he was a catalyst for starting the conversation of MAID. Keith Schneider, *Dr. Jack Kevorkian Dies at 83; A Doctor Who Helped End Lives,* N.Y. TIMES (June 3, 2011), https://www.nytimes.com/2011/06/04/us/04kevorkian.html?auth=login-smartlock; Thaddeus Mason Pope, *Professional Article: Legal History of Medical Aid in Dying: Physician Assisted Death in U.S. Courts and Legislatures*, 48 N.M.L. REV. 267, 275-76 (discussing MAID's developing appellation).

[11] Death with Dignity and Compassion & Choices are two of the nation's foremost authorities on MAID and prominent nonprofit organizations advocating for MAID. Both entities strongly encourage the use of MAID and explain the offensiveness located within the casual and misguided terms of "assisted suicide" and "euthanasia". They cite patients' feelings as well as the violent and harmful context those phrases imply. They have also successfully lobbied for the recent legislation passed in states like New Jersey and continue to inform legislators, physicians, and patients across the nation. *See* DEATH WITH DIGNITY, https://www.deathwithdignity.org; *see also* COMPASSION & CHOICES, https://compassionandchoices.org.

affiliated health care institutions who have since banned the practice within their ranks.[12]

Religiously-affiliated hospitals are not the only religious aspect of this debate. Religion inherently permeates the discussion surrounding the dying process.[13] Many significant religions like Catholicism, Judaism, Islam, and Mormonism do not approve of MAID and have publicly condemned it, believing that only God should control the time of death.[14] Most of these religions hold that "supporting terminally ill patients means accompanying them through their pain and fear, not allowing them to actively choose death."[15] While the faith leaders denounce MAID, their practitioners harbor less surety. For example, over two-thirds of self-identified Protestants and Catholics in a religious survey believed that a person in pain with little to no hope of improvement has the moral right of suicide.[16]

This article presents an overview and addresses the practical applications of MAID legislation and its requirements. It will also examine the impediments presented to MAID legislation due to its inherent connection with religion. Additionally, this article analyzes why the newly enacted MAID legislation itself is ineffective and provides for potential solutions.

II. HISTORICAL BACKGROUND

Similar to the Washington patient, Neil Mahoney, a terminally ill Colorado patient diagnosed with stage four cancer, asked his doctor for assistance with ending his life.[17] Mahoney cited multiple reasons for this decision, including his experience with close family members dying, sparing his family from witnessing his

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[12] *See* Tara Law, *Colorado Doctor Fired After Suing to Provide Patient with Aid-in-Dying Medication*, TIME (Sept. 3, 2019), https://time.com/5666225/colorado-doctor-fired-aid-in-dying-medication/.

[13] *See* Kelsey Dallas, *How Religion Changes the Medically Assisted Suicide Debate*, DESERET NEWS (Feb. 19, 2016, 11:05 AM), https://www.deseret.com/2016/2/19/20582845/how-religion-changes-the-medically-assisted-suicide-debate#professor-lucy-bregman-teaches-the-course-death-and-dying-an-offering-in-the-religion-department-at-temple-university-in-philadelphia-pa-feb-15-2016.

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] Law, *supra* note 12.

suffering, and the wish to avoid further and prolonged agony.[18] Since his diagnosis, Mahoney has endured difficulty eating, swallowing, breathing, distention, severe abdominal pain, underwent two rounds of chemotherapy, and lost a significant amount of weight.[19] Unlike the Washington medical professionals, Mahoney's doctor, Dr. Barbara Morris, tried to assist him in a limited, non-participating capacity. Dr. Morris was fired by her religious hospital[20] employer for trying to assist Mahoney with the medical aid in dying process and obtain information about it.[21] Dr. Morris wanted to help her patient but did not, cognizant of the hospital's policy against it.[22]

Consequently, Dr. Morris and Mahoney filed a lawsuit in state court, asking for clarity on her decision and how it interacts with the hospital policy's potential violation of state law.[23] In 2016, by a 65% majority, Colorado voters approved its End of Life Options Act, which was enacted shortly thereafter.[24] While the court has not yet decided on Dr. Morris's question, the religious hospital has removed the case to federal court, further delaying the process and left Neil Mahoney to suffer from stage four cancer while he awaited his legal fate.[25]

While the courts contemplate the Colorado dispute, this case is only one in a plethora of potential suits to come, especially with the ever-growing trend of MAID. Colorado is one of nine states that has enacted some variation of MAID statutes either through ballot initiatives or pure legislation.[26] Furthermore, over 30 states currently

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[18] *Id.*

[19] *Id.*

[20] For the purposes of this article, religiously affiliated health care institutions, primarily hospitals, will be referred to as "religious hospital(s)."

[21] *Id.*

[22] *Id.*

[23] *Id.*

[24] Jennifer Brown, *Colorado Passes Medical Aid in Dying, Joining Five Other States*, DENVER POST (Nov. 8, 2016), https://www.denverpost.com/2016/11/08/colorado-aid-in-dying-proposition-106-election-results; COLO. REV. STAT. §§ 25-48-101 to -123 (2016).

[25] Law, *supra* note 12. Eventually, Neil Mahoney had to drop out of the case because his condition worsened. He found a doctor that could prescribe the MAID medication, and after meeting all of the law's requirements, he took the medication while surrounded by his family, passing away two months after the lawsuit was filed.

[26] Other states with MAID legislation include California, District of Columbia, Hawaii, Maine, New Jersey, Oregon, Vermont, and Washington. *How Death with Dignity Laws Work,* DEATH WITH DIGNITY, https://www.deathwithdignity.org/learn/access/#talking_to_your_physician_about_death_with_dignity.

demonstrate ongoing judicial and legislative efforts to legalize MAID.[27] According to two national surveys in 2017 and 2018, over 70 percent of the American public supports these efforts and MAID legislation.[28]

The various states with end of life statutes have enacted almost uniform legislation with extensive safeguards while containing explicit requirements for eligibility and the process as a whole.[29] In short, the process that MAID legislation entails first includes about a month waiting period after requesting the medication twice orally and once in writing.[30] Second, regards eligibility, generally requiring that the patient must: "1) be over 18 years of age, 2) have decision-making capacity, 3) be able to self-ingest the medication, and 4) be terminally ill, meaning that they have a prognosis of six months or less."[31] Further, the requirements involve two physicians, a treating and consulting physician, who must "1) confirm that the patient satisfies all the eligibility conditions; 2) inform the patient about risks, benefits, and alternatives; and 3) confirm the patient's request for the medication is a settled and voluntary decision."[32] With a positive physician assessment, the treating doctor can prescribe the medication, and the patient can then obtain and ingest the medicine in the manner they wish.[33]

These statues also offer protections to anyone engaged in the MAID process. Health care providers, patients, and family members who comply with the law are not subject to criminal prosecution for their contribution or knowledge and participation is voluntary.[34] MAID legislation does not force physicians to involve themselves with MAID or refer patients to other physicians who do.[35] Nevertheless,

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[27] Pope, *supra* note 10, at 268; *see Compassion and Choices*, *supra* note 9.

[28] *Polling on Voter Support for Medical Aid in Dying for Terminally Ill Adults*, COMPASSION & CHOICES, http://compassionandchoices.org/wp-content/uploads/2018/06/FS-Medical-Aid-in-Dying-Survey-Results-FINAL-updated-7.9.18.pdf.

[29] Pope, *supra* note 10, at 271.

[30] *Id.*; Paula Span, *Aid in Dying Soon Will be Available to More Americans. Few Will Choose It.*, N.Y. TIMES (July 8, 2019), https://www.nytimes.com/2019/07/08/health/aid-in-dying-states.html.

[31] Pope, *supra* note 10, at 271.

[32] *Id.*

[33] *Id.*

[34] See *Compassion and Choices*, *supra* note 9.

[35] *See, e.g.*, End of Life Option Act, CAL. HEALTH & SAFETY CODE §§ 443.1-.22 (West 2019); Medical Aid in Dying for the Terminally Ill Act, N.J. STAT. ANN. §§ 26:16-1 to -20 (West 2019); Patient Choice at End of Life, VT. STAT. ANN. tit 18., §§ 5281-5293

they generally require physicians to provide information about MAID or assist their patients in obtaining this information as an option or transfer the patient's records to a facility that provides this treatment.[36] While these protections are necessary and vital, they tend to lead to larger problems and is just one of MAID's ongoing obstacles.[37]

Most MAID legislation affords protections for hospitals and health care facilities that do not wish to participate in this practice.[38] California's End of Life statute explicitly states that any facility can prohibit this process and disavow their doctors from doing the same.[39] A recent survey of 270 hospitals found that over a year after California's enactment of their End of Life Option Act, more than 60 percent of them, most religiously affiliated, forbade their physicians to partake in MAID.[40] While some states' legislation, like California, allow healthcare facilities to prohibit participation in MAID, others, like Colorado, do not.[41] For states like Colorado, the law is not clear whether this voluntary basis applies to corporate entities or individual physicians themselves.[42] This prohibition may set a dangerous precedent and has already damaged MAID legislation's effectiveness.

III. Discussion

The crux of the issue relates to why MAID legislation's limitations lead to ineffectiveness throughout the United States and what implications this could pose as the trend continues to propagate. Some states kowtowed to its detractors and health care facilities, carving out allowances for any naysayers and effectively rendering their MAID legislation an empty shell of progressiveness; others may face a heated First Amendment challenge if they required religious

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(2019); Colorado End of Life Options Act, COLO. REV. STAT. §§ 25-48-101 to -123 (2016).

[36] Emma Cueto, *Vt. Groups Can't Wage Doc Assisted Suicide Suit, Judge Says*, LAW360 LEGAL NEWS (Apr. 6, 2017), https://advance.lexis.com (search "assisted suicide" in "Legal News" category; then scroll through results or search within results "Vermont" for sixth result); *see, e.g.*, N.J. STAT. ANN. §§ 26:16-1, -16, -17.

[37] Span, *supra* note 30.

[38] *See, e.g.*, End of Life Option Act, CAL. HEALTH & SAFETY CODE §§ 443.1-.22 (West 2019); Medical Aid in Dying for the Terminally Ill Act, N.J. STAT. ANN. §§ 26:16-1 to -20 (West 2019); Patient Choice at End of Life, VT. STAT. ANN. tit 18., §§ 5281-5293 (2019); Colorado End of Life Options Act, COLO. REV. STAT. §§ 25-48-101 to -123 (2016).

[39] *See* HEALTH & SAFETY § 443.16.

[40] Span, *supra* note 30.

[41] *See* HEALTH & SAFETY § 443.16; *see also* §§ 25-48-101 to -123.

[42] *Id.*

hospitals to comply. MAID's religious underpinnings are not the only issue, as its own conditions and safeguards render it ineffective and make it near impossible for those seeking to participate.

Most states with MAID legislation allow health care facilities to prohibit these practices from their premises.[43] This carveout has the ability to render MAID legislation futile as religious hospitals represent a large number of medical facilities in the nation.[44] In the United States, one in six hospital beds is in a Catholic hospital that can control and almost certainly deny patients the opportunity to obtain the MAID medications.[45] In some states, more than forty percent of all hospital beds are in a Catholic hospital, and some regions have absolutely no other options for health care.[46] As mentioned, these religious hospitals, which represent twenty percent of hospital beds nationally, have the ability to prohibit their doctors from providing this type of care, making it increasingly difficult for patients like Neil Mahoney and the Washington patient to even access end of life options.[47] While these statutes are commendable for their respect for religious hospitals and religious freedoms, they are undoubtedly undermined by this deference.

However, mandatory compliance is not the answer either. Forcing religious hospitals to submit may produce serious First Amendment consequences. The Colorado hospital involved with Dr. Morris released a statement citing its Constitutional rights and how it intends to defend them vigorously.[48] Colorado's MAID legislation does not explicitly allow health care facilities to deny MAID options, but even if they did, the religious hospitals would most likely prevail if challenged for a religious exemption. Religious hospitals are typically nonprofit charitable organizations that can undoubtedly show precedent for religious exemptions under the Religious Freedom

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[43] *See, e.g.*, End of Life Option Act, CAL. HEALTH & SAFETY CODE §§ 443.1-.22 (West 2019); Medical Aid in Dying for the Terminally Ill Act, N.J. STAT. ANN. §§ 26:16-1 to -20 (West 2019); Patient Choice at End of Life, VT. STAT. ANN. tit 18., §§ 5281-5293 (2019); Colorado End of Life Options Act, COLO. REV. STAT. §§ 25-48-101 to -123 (2016).

[44] *See* Press Release, American Civil Liberties Union, New Report Reveals 1 in 6 U.S. Hospital Beds are in Catholic Facilities that Prohibit Essential Health Care for Women (May 15, 2016), https://www.aclu.org/press-releases/new-report-reveals-1-6-us-hospital-beds-are-catholic-facilities-prohibit-essential.

[45] *Id.*

[46] *Id.*

[47] *See, e.g.*, HEALTH & SAFETY §§ 443.1-.22; §§ 26:16-1 to -20; tit 18., §§ 5281-5293; §§ 25-48-101 to -123.

[48] Law, *supra* note 12.

Restoration Act (RFRA) and the Free Exercise Clause under the First Amendment.[49] As the infamous *Burwell v. Hobby Lobby Stores*[50] case exemplified, even for-profit religious businesses are protected by the RFRA and perhaps even the First Amendment.[51]

Upon further examination, the MAID legislation itself has significant flaws. The various safeguards and conditions that protect health care providers and patients alike lead to a complicated and challenging process, one that is inaccessible and available to a very limited few.[52] Even Oregon, the first state to enact such legislation, faces issues of patients unable to navigate the process.[53] A study from a California facility showed that one-third of its patients who request MAID either become too ill to complete the process or die before they can qualify.[54] The states show no signs of curtailing these safeguards either, as some are imposing longer waiting periods, and others are considering additional psychological evaluations.[55]

It is difficult enough for patients to find and meet with a physician who is willing to provide end of life care, yet the process afterward is even more complicated and insufferable.[56] For patients predisposed to Alzheimer's Disease, MAID is practically unattainable

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[49] *Profit vs. Non-profit Hospital Administration*, GEORGE WASHINGTON UNIV.: SCH. BUS. BLOG, https://healthcaremba.gwu.edu/blog/profit-vs-nonprofit-hospital-administration/; David T. Ball, *The Hobby Lobby Surprise: Making Money can be a Religious Experience*, AM. BAR ASS'N: BUS. L. TODAY (Sept. 19, 2018), https://www.americanbar.org/groups/business_law/publications/blt/2014/12/03_ball/; Law, *supra* note 12.

[50] Burwell v. Hobby Lobby Stores, Inc., 573 U.S. 682 (2014).

[51] The threshold question surrounding *Burwell v. Hobby Lobby Stores, Inc.* was whether a for-profit organization could invoke RFRA protections. While it was settled that nonprofit religious organizations are protected under the RFRA, the dissent argued for-profit business were not because "nonprofit religious corporations are…vehicles through which individual religious freedom is exercised." The majority eventually held that for-profit organizations are entitled to protection under the RFRA. The Supreme Court also concluded that the contraceptive mandate under the Affordable Care Act may not be applied to corporations whose owners object based on their religious beliefs. Ultimately, the majority concluded that one could not logically defend drawing a line between nonprofit and for-profit corporations under RFRA without injecting one's own values into the argument, effectively adopting a broad approach to RFRA protection. However, the Court never gave a definitive conclusion to the First Amendment protection question raised by the parties. *See* Ball, *supra* note 49; *see also Burwell*, 573 U.S. at 682.

[52] Span, *supra* note 30.

[53] *Id.*

[54] *Id.*

[55] *Id.*

[56] *Id.*

if they develop dementia, as the combination of the stringent eligibility requirements and psychological evaluations establish that patients must have mental or decision-making capacity.[57] An Oregon state representative was met with harsh criticism when he proposed a solution for dementia patients.[58] His resolution included permitting those diagnosed within the early stages of dementia and other neurodegenerative diseases to request the MAID medication, securing the prescription while they are cognizant so they may use it later as the disease unfolds.[59]

Religious freedom protections are seemingly inescapable regarding solutions towards this legislation, and the only way to resolve this issue may be to sidestep around it. While some may argue this notion dodges the issue, the solution may involve amending current MAID legislation to slacken its requirements but provide more progressive action.[60]

Legislative bodies can find potential solutions to MAID's shortcomings, both domestically and internationally. Inspiration from other countries may involve decreasing the stringency of the eligibility requirements while not removing the safeguards. For example, the Netherlands does not have a psychological requirement that a patient must pass to be eligible for the MAID process.[61] The Dutch legislation explicates that physicians who provide MAID must thoroughly explain why the patient was in an untenable situation and that other acceptable remedies were unavailable.[62] However, physicians who feel a psychological evaluation is necessary can then use their discretion and conduct one.[63] This would be especially

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[57] *Id.*

[58] The criticism State Representative Mitch Greenlick received involved the proposal eliminating the mental capacity requirement by shifting the test to an earlier point in time. Every state's existing legislation bars this. Those requesting end-of-life options must have the mental capacity to avoid coercion, abuse, and criminal wrongdoing – it is one of the most important protections afforded to patients. These patients can only request for MAID when they have six months to live, and dementia patients will have lost their mental capacity by the time those final six months arrive. This decision must be voluntary, another requirement in the statute, and those without mental capacity cannot volunteer for this process. Span, *supra* note 30.

[59] *Id.*

[60] *Id.*

[61] Kurt Darr, *Physician-Assisted Suicide: Legal and Ethical Considerations*, 40 J. HEALTH L. 29, 58 (2007); *see* Alyssa Thurston, *Physician-Assisted Death: A Selected Annotated Bibliography*, 111 L. LIBR. J. 31, 62 (2019).

[62] Sjef Gevers, *Euthansia: Law and Practice in the Netherlands*, 52 BRIT. MED. BULL. 326, 329 (1996).

[63] *Id.*

helpful to Alzheimer's patients and those with memory loss or cognitive dysfunction who are afforded very few, if any, remedies or relief. Additionally, some advocates suggest the United States should follow Belgium and the Netherlands in making MAID available for certain terminally ill adolescents.[64] The aforementioned countries recognize this age group's capability in exercising personal autonomy with these choices and have provided safeguards that protect these patients from coercion.[65]

Some solutions are a little closer to home. A recent medical aid in dying bill in New Mexico proposed permitting nurse practitioners and physician assistants, medical positions that both possess the legal authority to write prescriptions, to prescribe MAID medication to terminal patients.[66] This would alleviate the strain on patients struggling to find physicians that provide MAID care, as so many have their hands tied in religious hospitals. Moreover, this could provide greater options to more patients by creating a higher rate of availability of medical professionals equipped and willing to participate in the MAID process in a practical and accessible location. Another such benefit of sanctioning more medical professionals to administer MAID medication is shortening the extensive waiting periods that plague this process as access to MAID professionals would be more readily available.[67]

A more unique approach to MAID involves the rapidly growing movement of telemedicine.[68] Telemedicine involves "diagnosing and treating patients from a distance through technology" and has been legal in some states for more than two decades.[69] This would immensely alleviate many patients' challenges of finding access to a MAID health care provider. While telemedicine may seem unusual to some, New Mexico has incorporated the process fairly seamlessly into their health care system, and its most common uses entail

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[64] Anne Compton-Brown, *Examining Patient Integrity and Autonomy: Is Assisted Death a Viable Option for Adolescents in the United States?*, 23 ANNALS OF HEALTH L. ADVANCE DIRECTIVE 86 (2014); *see* Thurston, *supra* note 61.

[65] Compton-Brown, *supra* note 64.

[66] Span, *supra* note 30; Jennifer Graham, *Physician-Assisted Death with a Twist: Should Lethal Drugs be Provided to the Terminally Ill Through Telemedicine?*, DESERET NEWS (Jan. 28, 2019, 11:21 AM), https://www.deseret.com/2019/1/28/20664346/physician-assisted-death-with-a-twist-should-lethal-drugs-be-provided-to-the-terminally-ill-through.

[67] Graham, *supra* note 66.

[68] *Id.*

[69] *Id.*

prescription management and renewal.[70] A New Mexico law professor indicated that "telemedicine is a kindness, making [MAID] available to people in rural communities," many of whom already use telemedicine."[71] He further elucidated that patients in rural areas have significantly less access than those in urban and suburban settings to find a doctor at all, let alone one willing to participate in MAID.[72] Telemedicine could dramatically improve access to MAID professionals in a way that not only lessens waiting periods, but to those who have almost no way of obtaining this help otherwise. Proponents of New Mexico's bill urge the country to remember that those seeking end of life options are sick and near death, where long commutes into the closest city is an unnecessary and potentially dangerous burden.[73] Telemedicine involves no transportation and the patients, who are already diagnosed with the terminal illness, can consult with a medical professional comfortably and safely in their own home.[74]

IV. Conclusion

MAID legislation is facing an uphill battle, one that it perhaps deceivingly seemed to be winning. However, if more states continue to enact identical statutes, this incendiary movement may burn out. Religion is the potential lynchpin in MAID's downfall, and the lack of direct confrontation with continued acquiescence may be its undoing. Without acknowledging MAID's ineffective practical implications and serious consideration of its numerous limitations, especially the conflict with religious hospitals, terminally ill patients may be left with almost no recourse to their suffering. States sincerely concerned about easing the suffering of patients that wish to avoid the difficult First Amendment implications, should perhaps consider expanding access publicly, providing for more governmental facilities, health clinics, or public health care institutions that offer end-of-life options. The terminally ill have agonized enough; it is time for states with legislation, states considering it, and MAID advocates to recognize its pitfalls and prevent more cases like the Washington patient and Neil Mahoney.

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[70] *Id.*
[71] *Id.*
[72] *Id.*
[73] Graham, *supra* note 66.
[74] *Id.*