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Logical Inconsistencies in the Law of Euthanasia

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In American jurisprudence the subject of assisted death is one that evokes strong feelings from people on both sides of the argument because, in addition to being a legal issue, it is closely tied to morality, personal politics and religion. Herein, this paper will show that based on the current American jurisprudence and standards of medical practice, there is a fundamental incoherency both morally and logically in opposing arguments to the practice of voluntary active euthanasia. It is important, for purposes of examining this subject to recognize there are certain types of euthanasia that take place in this country, some legal, some not. The distinctions drawn between the types leads to a muddled view where some individual’s rights are ignored while others are exercised. In the pages that follow there will be a discussion concerning the difference between active and passive euthanasia, competent and incompetent individuals, autonomy, current medical practices, the valid concerns raised by opponents of allowing active euthanasia and the moral and logical inconsistencies drawn there from.

In any discussion of individuals choosing to die we must consider the competency of the individual making the
choice. For purposes of this discussion it will be assumed that all individuals wishing to die are capable of making informed decisions at the time they choose. Frequently, opponents of euthanasia turn to the argument that those incapable of making this choice knowingly and intelligently will be taken advantage of and, in turn, killed when they did not actually wish to die. It is clear that this is a valid concern, one that if active euthanasia were to be made legal, must be addressed and regulated. For the purposes of this paper, however, we will be discussing only those individuals who, at the time they made their decision, were competent and able to make such a decision knowingly and intelligently. Additionally, from a definitional standpoint it is important to know the distinction made between active and passive euthanasia as defined in American jurisprudence. Active euthanasia is thought of as an act; affirmatively taking a step to kill an individual. This is illegal. Passive euthanasia is seen as an omission. An example of this would be removing an individual’s feeding tube. This is not defined as actively killing the person, but withholding treatment, an unintended consequence of this omission being the death of that individual.
A physician following a do not resuscitate order or a living will instructing them to withhold life preserving treatment in specific circumstances would be seen as a passive form of euthanasia and is legal under United States law. Because the individual is refusing treatment, and the doctor is simply agreeing to withhold treatment, not actively killing the individual, this is seen as an omission. This distinction causes problems from both a moral and a logical standpoint. “[H]ere . . . the distinction [is] readily subject to manipulation. Refusing to eat can be cast as ‘omitting’ food or ‘actively’ starving. Removing food and water tubes can be painted as ‘actively’ pulling the plug or merely ‘omitting’ the provision of advanced medical care.”¹ From a logical perspective, it seems that removing a feeding tube, knowing the consequence will be starvation and death for that individual is every bit the active step that injecting them with a lethal dose of pain killers is. If the specifics of this situation were changed, an easy hypothetical shows this reasoning does not make sense. If person A is told that pushing a button will undoubtedly cause the death of person B by asphyxiation, but person B agreed to die, would

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person A not be taking an active step by pushing that button, and therefore affirmatively killing person B? This is essentially the same scenario only pushing the button, turns off the machines keeping person B alive.

An interesting consequence of this legal doctrine is that the current state of the law requires that a competent individual can only legally chose the death that is MOST painful. Here, a living will can be signed allowing the doctor to legally withhold treatment such as a feeding tube in a given situation because it is an omission. The doctor cannot, however, administer a lethal dose of painkillers that will end the person’s life instantly. This will inevitably cause the person to starve to death, taking days and possibly weeks of suffering to finally end the life. If that same competent person were allowed to choose for the doctor to administer a lethal amount of painkillers, it would save that individual the suffering of starvation.

This logical inconsistency in the law of allowing a choice of death in certain situations, not allowing a choice in the manner of death, and requiring the most painful type of death will come into play later in this paper while discussing autonomy, the concept of individual’s best interest and the arguments against active euthanasia.
In Ronald Dworkin’s book *Life’s Dominion* three factors are outlined from both sides of the euthanasia argument. These three issues are autonomy of individuals, the best interests of individuals and the sanctity of life. ²

### Autonomy:

Both proponents and opponents of euthanasia appeal to the basic idea of individual autonomy. Proponents “say that it is crucial to people’s right to make central decisions for themselves that they should be allowed to end their lives when they wish, at least if their decision is not plainly irrational.”³ This view appeals to the basic rights of liberty and privacy afforded in the Constitution. Ideally, competent individuals would be allowed to decide what is in their best interests. This currently includes a right to form a living will stating an individual does not want any form of treatment, and consequently to die, if they are ever in a persistent vegetative state. It also includes a legal right to sign a do not resuscitate order so that if something were to go wrong in surgery, the individual has refused treatment.

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³ *Id.* at 190.
Additionally, there have been several cases where individuals who could’ve been treated for curable diseases chose to refuse medication, ending their lives. These are all legal options, but the current law distinguishes these situations from choosing to have physicians assist them in death, even if the individual is the exact same person, in the exact same situation as the one refusing medication. As stated above, paradoxically, the law has forced competent individuals, who want this choice, to only have the option that will induce the most suffering.

“[S]ome opponents of euthanasia also appeal to autonomy; they worry that if euthanasia were legal people would be killed who really wanted to stay alive.”\(^4\) This reasoning presents several very legitimate issues. Dworkin sort of brushes this concern aside, saying that this can be regulated as with any other law; “any remotely acceptable law permitting euthanasia for competent people would insist that they not be killed unless they have clearly asked to die.”\(^5\) Interestingly though, there is one scenario where this problem is very sticky. In the hypothetical where an individual knows they have Alzheimer’s, or some other degenerative disease of the brain, how are we to know what

\(^4\) Id.  
\(^5\) Id.
the individual wants at the time they are fully afflicted? Imagine a competent person who made their wishes clear; they did not want to live when they were fully afflicted by Alzheimer’s. They cannot stand the idea of living not knowing any of their family or friends, losing all sense of pervious self. But once the disease takes over, the person is perfectly happy living in their nursing home. They lost one hundred percent of their former personality, essentially becoming a different person, with no memory of the past, yet perfectly happy in the present. It can be argued that this person is an entirely new person. They do not remember any of their wishes from before, they do not remember their family, and when asked they respond that they are happy and wish to remain alive. Because they have lost all remnants of the personality they had before the disease took hold, it seems that this is a very special case.

Past individual autonomy should not be honored here because the individual has been fundamentally changed, and their wishes have then changed. It seems the most logical, and appropriate, solution to this problem is to allow the person to continue living. As for their former wishes, the disease did exactly what the person feared, but once it was over, the new person wishes to live. This is probably an
instance that would have to be legislated, but in this special case, individual autonomy would not be served by euthanizing an otherwise healthy and happy Alzheimer’s patient.

BEST INTEREST:

The next issue that Dworkin points out is that of preserving the best interests of the individuals in all cases. “Many people are opposed to euthanasia on paternalistic grounds. They think that even when people have deliberately and self-consciously chosen to die— when we know that is their genuine wish—it is nevertheless bad for them to die.” This view is interesting because it seems to logically follow that dying is inherently bad, and the government should not legally allow individuals to choose things that are always going to be against their interest. The example pointed to by proponents of this view is the tragedy of “an otherwise healthy young man . . . kill[ing] himself when he is in a depression that might well be temporary . . . even if he has reflected on the matter and

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6 Id. at 192.
still wants to die, [we] believe that he has made a mistake, that dying is against his interest.”

Here, however, is an extreme case that could be avoided through regulation and legislation. In theory, if the government legalized active euthanization, they could require that the otherwise healthy individual choosing to die undergo a psychiatric evaluation prior to the act to judge competency in making the decision. Additionally, they could impose a waiting period to make sure that individuals have considered the matter fully and are not taking the decision lightly. Finally, the simple requirement that individuals be competent could take into account all the factors sighted above, subject to approval from a professional. Presumably, this could eliminate most of the situations feared above.

Next, it seems this stance has an inherent assumption that is flawed. Proponents of this stance assume that in all cases it is worse to be dead than alive. Dworkin cites the Cruzan case and a later Missouri case, in which individuals who were surviving in a persistent vegetative state were allowed to die by removal of life support. In these cases “no one challenged the view that the central

\[\text{Id.}\]
question was whether it could responsibly be thought to be in the best interests of a permanently vegetative patient to die." It seems logical that people with crippling diseases, or in persistent vegetative states, begging to be released from their constant pain and misery would be better off if they were allowed to exit this life in a painless manner. Here it seems that an argument seeking to preserve the best interest of individuals is actually on the side of causing more physical suffering than is necessary. If death is eminent and unavoidable for an individual, how is the best interest of that individual served by prolonging the suffering? Would it not be in their interest to make the process as quick and painless as possible?

Additionally, this stance seems at least a bit counterintuitive, as it is legal for individuals to choose things that are negative, or not in their best interests, all the time. Specifically, individuals enjoy the legal right to choose painful elective and unnecessary medical procedures to alter physical appearance. Additionally, we are free to make stupid or reckless decisions with money, our livelihoods and futures without the government stepping

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8 Dworkin, supra note 2, at 194.
in to tell us what is in our best interests. These matters are not necessarily life and death, but they are extremely important. It stands to reason that if a competent individual is allowed to make any medical decisions that may be perceived as against their interest, they should be allowed to choose all medical procedures that may or may not be in their best interest.

SANCTITY:

The final issue that Dworkin points out is the argument for preserving human life at all costs because there is inherent value and sanctity of human life separate from the individual. He asks “is euthanasia wrong—even when the patient desires death, and even when death is in his best interests—because it invariably violates the intrinsic value and sanctity of human life?” In discussing this he cites the Cruzan case again, stating “Justices Rhenquist and Scalia in the Cruzan case both embraced the parallel distinction about euthanasia: they said that Missouri had the right to adopt strict rules about euthanasia, even if these rules acted against the autonomy and the best interests of patients, in order to protect

9 Id.
human life itself.”\textsuperscript{10} The key difference here is the intrinsic value of life and its’ personal value for the patient.\textsuperscript{11}

Proponents of this view “think that a person should bear the pain, or be cared for unconscious, until his life ends naturally – by which they mean other than through a human decision to end it – because they believe that deliberately ending a human life denies its inherent, cosmic, value.”\textsuperscript{12}

In many cases this view seems to collapses on itself. Individuals who have fallen into a persistent vegetative state, or are suffering from some otherwise deadly disease where they are kept alive by machines would have died but for human decisions. Humans interfered by artificially keeping those individuals alive who would have died “naturally”. This circumstance forces human decisions to end that life. If the life sustaining machines are turned off, that must be because of a human decision. The patient is never given the chance to die a natural death, that death was preempted by human intervention. “[T]he conviction that human life is sacred [and should not be

\textsuperscript{10} Id. at 194-5
\textsuperscript{11} Id. at 195.
\textsuperscript{12} Id.
Joel Feinberg, in his article “Voluntary Euthanasia and the Inalienable Right to Life” incorporates many of Dworkin’s ideas in discussing this argument from a textual standpoint in a very clever and convincing manner. Here he tries to show that exercising one’s right to life may properly include choosing to die.

First of all, it is necessary to “to interpret ‘the right to life’ in a relatively narrow way, so that it refers to ‘right not to be killed’ and ‘the right to be rescued from impending death,’ but not to the broader conception, favored by many manifesto writers, of a ‘right to live decently’.”\textsuperscript{14} This distinction is necessary because it defines the terms we are discussing. “[A]t issue in debates over euthanasia and suicide [is the right not to be killed, or the right to be saved], not the various welfare rights enumerated in twentieth-century manifestoes.”\textsuperscript{15} By defining the right to life in this way, and specifically characterizing it as the right not to be killed and the right to be saved from impending death, it is possible to

\textsuperscript{13} Id. at 196.
\textsuperscript{14} Joel Feinberg, Voluntary Euthanasia and the Inalienable Right to Life, 7 PHIL. & PUB. AFF. 93, 94 (1978).
\textsuperscript{15} Id. at 94-5.
interpret this right so that it is not infringed upon by voluntary euthanasia.\textsuperscript{16} In fact it is possible, and logical, to construe this right as guaranteeing the people a right to choose the time and manner of their death.

“This right to life . . . is generally thought, at last in our time, to be a claim-right . . . a claim right . . . is a liberty correlated with another person’s duty (or all other persons duty) not to interfere . . . the ‘right to life’ in the sense here being explained . . . guarantees that (under normal conditions, at least) others cannot be at liberty to kill you.”\textsuperscript{17} Feinberg breaks his discussion down into three views of the right to life; first there is the “Paternalist View”, similar to Dworkin’s “Best Interest” argument, next there is the “Founding Fathers” view, derived strictly from Constitutional text, and finally there is the “Extreme Anti-Paternalist” view, similar to Dworkin’s “Autonomy”.

“THE PATERNALIST” VIEW:

According to this view “the right to life is a mandatory nonwaivable right . . . [t]he right therefore must always be ‘exercised’ and can never be ‘waived.’

\textsuperscript{16} Id. at 123.
\textsuperscript{17} Id. at 95-6.
Anyone who could wish to waive it must simply be ignorant of what is good for him.” Similar to the “Best Interest” view articulated by Dworkin the “Paternalist” assumes that there is no situation in which death can be in an individual’s best interest. Interestingly, Feinberg demonstrates that this is inherently flawed in a similar manner to Dworkin. Proponents of this view purport to be looking out for the best interest of individuals. Paradoxically, however, they encourage an end to life that in many cases causes the maximum amount of suffering possible. Individuals that are suffering from terminal illness and unending pain are currently forced to endure the pain and hope for the release of death. This could drag on for countless days, weeks or months with no possibility of relief. It is somewhat counterintuitive to believe that it is better for these people wishing to die to suffer, rather than have access to the readily available relief they seek.

“THE FOUNDING FATHERS” VIEW.

18 Id. at 120-1.
This is a textual reading of the rights enumerated in
the Constitution under the due process clause stating no
one can be “deprived of life, liberty or property”.\(^\text{19}\) This
takes the right to life as “discretionary, not a mandatory
right . . . exactly like the most treasured specimens in
the ‘right to liberty’ and the ‘right to property’
categories.”\(^\text{20}\) If read in the same way as liberty and
property “the right to die is simply the other side of the
coin of the right to live. The basic right underlying each
is the right to be ones own master, to dispose of one’s own
lot as one chooses.”\(^\text{21}\) This view is very interesting because
it can be construed as the Constitutional guarantee that
other individuals have a duty not to kill you, as well as
save you from impending death as long as they do not have
to put themselves in harm’s way to do it.

Because it is a right, individuals are free to
exercise it as they choose, or waive it as they would a
liberty or property interest. From this perspective the
proponent states that “[w]hen I choose to die by my own
hand, I insist upon my claim to the noninterference of

\(^{19}\) U.S. Const. amend. V.
\(^{20}\) Feinberg, supra note 14, at 121.
\(^{21}\) Id.
others.”\textsuperscript{22} In similar circumstances, where the individual wishes death but “I am unable to terminate my own life, I waive my right to live in exercising my right to die, which is one and the same thing as releasing at least one other person from his duty not to kill me . . . I am acting on that right [to life] by exercising it one way or the other.”\textsuperscript{23}

This view is very interesting from a textual standpoint. Having a Constitutional right to liberty or property means that individuals have the right to exercise those rights as they see fit, and others have a duty not to interfere (assuming they are legally exercising said rights). The right to life is included in the text in the same manner as liberty and property. It stands to reason that they should be interpreted in a similar manner. If an individual has a right to life, others have a duty not to kill him. This can be read to allow the individual to exercise his right to life by ending that life. And if the individual is legally allowed to end his own life, then it follows he can waive the duty of another not to kill him, and allow that person to end his life for him. This argument is based on the assumption that death is included

\textsuperscript{22} Id. at 122.  
\textsuperscript{23} Id.
as a part of life, and as such is included in the Constitutional right to life. When read strictly, it is a compelling argument for the right to choose death.

THE “EXTREME ANTI PATERNALIST” VIEW:

This view is similar to the point of view expressed in Dworkin’s “autonomy” section, “according to this view a free and autonomous person can renounce and relinquish any right, provided only that his choice is fully informed, well considered and uncoerced.”\(^{24}\) As stated above, for purposes of this paper all individuals choosing to die are doing so competently. This satisfies the well-informed, well-considered and uncoerced prong of this idea. Basically, this view supplements the Founding Fathers view in that it states that in a free society, individuals with autonomy are able to waive any of their rights. Just as people are able to waive the right to counsel at trial, or waive their Miranda rights, people can waive any right they have a claim to.

\(^{24}\) Id. at 122-3.
Assuming, as Feinberg asserts here, that being alive, not being killed, and being saved from impending death are rights we all enjoy, it follows that if we have autonomy we can waive these rights. Confusingly, there are scenarios in which it is legal to waive some of these rights, but not legal to waive others.

In the case of living wills and do not resuscitate orders an individual has waived their right to be saved from impending death by any individual who could do so without endangering themselves. The patient has knowingly told the doctor that they are competently choosing death over the alternative of life saving medical treatment during complications from surgery, or removal of life support if they are ever in a persistent vegetative state. It seems curious that an individual can legally exercise this right in these situations but not in others. If a competent healthy individual can legally waive these rights should they ever become ill, why would it be illegal for competent terminally ill patients to waive their right to life prior to enduring the worst parts of the illness?

With this discussion in mind we turn to the most prominent Supreme Court Case dealing with these issues. In *Cruzan v. Director, Missouri Board of Health* the Court does not specifically state the above mentioned types of
thinking, but they do illustrate the interplay of all of these ideas, and seem to recognize that in some situations, with “clear and convincing evidence” individuals do have a right to terminate their own life.

THE CRUZAN CASE:

In this famous case, Nancy Cruzan was left in a persistent vegetative state after a serious car accident. Her parents attempted to have the feeding tube, the only thing keeping her alive, removed. They stated that their daughter would not want to remain in this state and her best interest dictated that she should be allowed to die. The state of Missouri sought, in order to preserve human life, not to remove the tube without Court approval. The state Courts upheld the policy of keeping her alive absent a living will and the Supreme Court affirmed stating that absent “clear and convincing evidence” of the individual’s wishes to end their life in this situation (such as a living will) the State’s policy aimed at preserving life was Constitutional. The Court’s reasoning was that because, absent clear and convincing evidence, there was

25 Dworkin, supra note 2, at 196.
too much room for erroneous actions by family members, and the decision to terminate life is irreversible, the Court upheld Missouri’s decision to keep Nancy Cruzan alive.\textsuperscript{26}

One of the major assumptions subject to scrutiny in this case is “that no serious harm is done in keeping alive someone who would have wanted to die; without that assumption, [Rhenquist’s] premise – that caution lies on the side of not terminating life support – is plainly invalid.”\textsuperscript{27} It follows that if an individual’s wishes were to never be artificially kept alive in such a manner, then that person’s interests are being hurt every day they are subject to living in that state. Consequently, “[i]f we were to assume (as a great many people do) that it is very harmful for someone to live on for years in a vegetative state, his argument fails.”\textsuperscript{28} Here the Court alludes to the argument Dworkin outlines as the “Best Interests” argument and Feinberg shows in his “Paternalist”.

Because the taking of a life is irreversible, Missouri requires that there be a high standard to showing the individual wanted this action taken. The Court agrees with this rationale and states that erring on the side of

\begin{itemize}
\item \textsuperscript{26} Id. at 196-8.
\item \textsuperscript{27} Dworkin \textit{supra} note 2, at 197.
\item \textsuperscript{28} Id. at 197.
\end{itemize}
caution is erring on the side of keeping the patient alive. Therefore, it is generally in the best interest of the patient to be kept alive. This reasoning falls victim to the attacks outlined above. This is assuming that it cannot be in the best interests of an individual to die. The Court recognizes that individuals can have a choice to die, but they are choosing something against their own interest. Therefore, they require a very strict threshold to prove the individual actually chose death. While strict requirements and regulation should be implemented in the system for allowing active euthanasia, it should not be assumed that being forced to stay alive does not harm individuals wishing to die.

Rhenquist went on to justify his argument by outlining the argument made in Dworkin’s conception of “Sanctity for Human life” arguments. He states “even if it worked against Nancy Cruzan’s interests . . . a state has a detached interest in preserving human life, whatever the patient’s own interest might be.” This argument “assumes that a state may require that people be kept alive out of respect for the . . . sanctity of human life.” Clearly the Court

29 Id. at 198.
30 Id.
recognizes an inherent value in human life, detached from that individuals wish.

This argument is curious, however, because it could be argued that Missouri is not preserving human life, but artificially forcing human life upon an individual. The Sanctity of Human life arguments supposes that it is somehow disrespectful to human life to take it upon themselves to end it, not letting it expire naturally. But as stated above, this argument collapses on itself when one considers that we are actually preventing human life from ending naturally. Once an individual who would surely have died naturally is put on machines to artificially keep the body running, people are interfering with the natural way this individual would have died. Regardless of how this person’s life ends, it will be because of the actions of other individual, and the goal of letting it happen naturally is lost.

As Dworkin points out “after studying all the opinions the various justices wrote in the case . . . its’ effect was to affirm some constitutional right to die, even though the actual ruling upheld the power of a state to impose severe restrictions on the way in which that right must be
exercised."\textsuperscript{31} So, by employing the ideas set forth above, the Court came to the decision that there is a right to die at the heart of this issue, but at this point individuals cannot legally exercise it in every situation. Feinberg’s “Founding Father’s, and Anti-Paternalist” view casts doubt on this decision from a logical and legal standpoint, and Dworkin’s Best Interest, Sanctity of Human Life and Autonomy serve to show that under scrutiny much of these ideas collapse on themselves.

Finally, it is necessary to turn to the major argument against legalization of active euthanization for competent individuals not thoroughly discussed above, as well as discussing ways in which the exercising of this right could be made safe and practical for both medical practitioners and individuals wishing to end their lives with dignity. The most compelling and prominent argument against active euthanization is the slippery slope argument cautioning against wide spread abuse of the proposed system. This is clearly a valid concern. Taking the life of an individual who does not wish to die is murder, and the goal of this idea is to preserve the best life possible for individuals in accordance with their own wishes.

\textsuperscript{31} Id. at 198.
“[A] familiar argument against legalizing euthanasia for conscious people— that old people are vulnerable and can sometimes be pressured into asking to die – makes the same mistake [as the Best Interest argument]: it fails to recognize that forcing people to live who genuinely want to die causes serious damage to them.”\textsuperscript{32} Here it is clear that every possible step must be taken to avoid the abuse of the system. For conscious and competent individuals, making sure that this is a decision they truly want should be paramount. If this practice were to be made legal, regulation would have to be put in place that could include a screening with mental health professionals, a possible waiting period to weigh the options and any other checks and balances to make sure these individuals are not making this choice from some unseen pressure to end their life.

Additionally, it should be assumed that all lives, regardless of situation, if the individual wishes to continue leading theirs, are equal. Any attempt to assign “worth” to individuals relative to one another will lead to complications, and the pressure described above. As Dworkin correctly points out, however, completely banning this type of end of life scenario based on this slippery slope

\textsuperscript{32} Id. at 197.
rationale has the fatal flaw of causing a great deal of harm where it seeks to prevent harm. To assume that being forced to remain alive does not harm individuals who wish to die is patently incorrect.

Similarly, the slippery slope approach to possible abuse of this system must be addressed as it is a completely valid concern.

[T]he . . . familiar ‘slippery slope’ argument: that legalizing euthanasia even in carefully limited cases makes it more likely that it will be legalized in other, more doubtful, cases as well, and that the process may end in Nazi eugenics. That argument also loses its bite once we understand that NO euthanasia is itself harmful to many people; then we realize that doing our best to draw and maintain a defensible line, acknowledging and trying to guard against the risk that others will draw the line differently in the future, is better than abandoning those people altogether. There are dangers both in legalizing and refusing to legalize; the rival dangers must be balanced, and neither should be ignored.\(^{33}\)

As Dworkin argued above, this right should not be ignored but regulated so that the fewest individuals as humanly possible are harmed. If all euthanasia is banned, then

\(^{33}\) Dworkin supra note 2, at 197-8.
people who wish to die are harmed, while sparing those who wish to live. If the regulation is not stringent enough, the harm could be that individuals, who would have wanted to live, might be killed. The best solution to minimize harm to is put measures in place such as screenings, tests for competency and regulation.

An additional concern in the slippery slope argument is that somehow doctors may be incentivized to end the lives of people who do not truly wish that fate. Here, I believe opponents are painting a scenario that is unlikely. Doctors already possess the means to end patient’s lives. There is plenty of lethal medicine readily available in every hospital in the United States. Ending patient’s lives when they do not wish would constitute murder. If and doctor wishes to murder patients (and there are cases where this happens) these laws will not provide any more incentive than is already necessary, and keeping it illegal will not provide any more deterrence than there already is for murder.

The general consensus is that doctors wish to help patients, and the way the law is structured now they are forced to watch patients suffer more than necessary. As argued above, the current state of the law forces a doctor
with a DNR or living will in hand to asphyxiate or starve a patient to death rather than painlessly end their lives.

CONCLUSION

Finally, when viewed as a whole this issue seems paradoxical in that all parties on both sides of the argument are trying to maximize individual’s lives and minimize suffering but:

Individuals who want to die and are capable of carrying out their wishes are not likely to be deterred by the threat of criminal sanctions. Thus, incompetent or distraught persons who would destroy themselves without sufficient cause or consideration will not be affected by a change in the legal status of suicide. As a practical matter, therefore, broad proscriptions of suicide and (in particular) assisted suicide seem to deny access to self-imposed death to that specific class of persons who might actually benefit from exiting life -- terminal and seriously ill patients.34

Regardless of which view an individual subscribes to, a regulated approach to this problem, allowing the use of active euthanasia in certain cases would be the best solution, minimizing harm for all individuals

involved. From the Best Interest perspective, one must not forget that forcing people to stay alive when they desperately desire to leave this life causes irreparable harm to that person. When considering individual autonomy we must respect their right to exercise the right to life in a manner we may not agree with, while taking special precaution to make sure that only the people who truly desire death are treated. With respect to the sanctity of life it is important to recognize the fatal flaw that human intervention is the only thing keeping these individuals alive. A natural death is not possible past this point because nature was preempted. From a legal standpoint it is important to look to the text of the Constitution and realize that exercising a right to life can be interpreted to include deciding on ones own death. And finally, the slippery slope that this problem presents is one that must be regulated strictly, in the hopes of preserving quality of life and limiting of suffering for those individuals in these regrettable circumstances.