Medical Assistance/Aid in Dying (MAID)

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Disclosures:

None related to this talk

Objectives

1. Understand the principles of medical assistance in dying (MAID)

2. Identify some of the common criteria in use to determine eligibility for medical assistance in dying

3. Understand the ethical considerations for medical assistance in dying

Outline

- *Definitions and Distinctions*
- *Brief History of MAID*
- *Ethical Considerations*
  - *Alternatives to MAID*
- *Responding to Requests for Hastened Death*

What is MAID in America?

- AKA: Death with Dignity
- Common Components of US Law:
  - Terminally ill individual
  - Adult, mentally competent, resident of the state
  - 2 physicians certify a 6 month or less prognosis
    - Voluntary participation by patient and clinicians
  - 2 separate oral requests from the patient
    - Separated by waiting period (e.g. 15-20 days)
    - 2nd waiting period between request and prescription (e.g. 48 hrs)
  - Written, witnessed request
  - Patient must have been educated about and offered alternatives (hospice, palliative care, pain management)
  - Not affect life-insurance; death certificate
  - Medical record documentation and reporting
  - **Self-administration of lethal medication**

MAID vs Euthanasia

- AKA: mercy killing, Active Voluntary Euthanasia (AVE)
- *The deliberate termination of another's life by a healthcare provider at the individual's voluntary and competent request*
  - Distinctions in other types of euthanasia: (passive), non-voluntary or involuntary
- **Illegal in United States**

Kusmaul, N, et al. Omega, 0(1-18), 2021.

Pop Quiz!

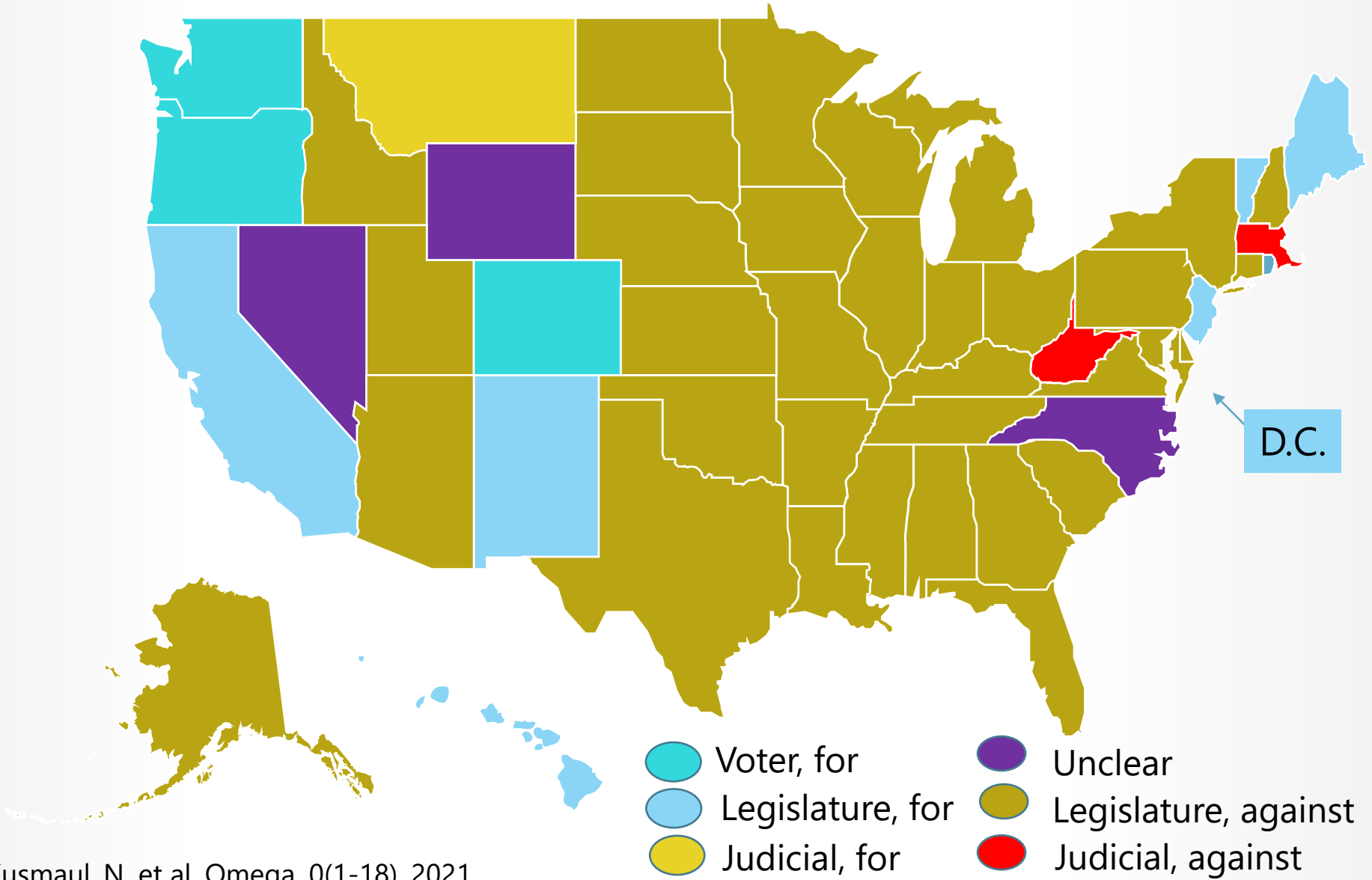
Historical and Legal Context

Euthanasia is illegal, as it is equated to homicide (murder)

Suicide (self-murder) has been illegal, and is now decriminalized

Assisting suicide "A person is guilty of [that crime] when he knowingly causes or aids another person to attempt suicide." (felony, manslaughter)

Current U.S. Participation in MAID



Kusmaul, N, et al. Omega, 0(1-18), 2021.

https://euthanasia.procon.org/states-with-legal-physician-assisted-suicide/; https://www.patientsrightscouncil.org

Brief History of MAID in the U.S.

1990 – US Supreme Court rules in Cruzan vs Director, Missouri Department of Health Patient Self-Determination Act requires healthcare facilities to inform patients about advance health directives

1994 – Oregon voter referendum legalizes MAID and is immediately contested

June 1997 - US Supreme Court in *Washington v. Glucksberg,* leaves the issue of the right to MAID to states

October 27, 1997 - Oregon's injunction is lifted and the 1994 voter referendum goes into effect (51% approval). Assisted Suicide Funding Restriction Act (ASFRA) restricts federal money being spent on MAID

November 4, 2008 - Washington's initiative, the Death with Dignity Act, is passed with 57.9% voter approval and goes into effect March 5, 2009.

December 31, 2009 - Montana Supreme Court rules in the case *Baxter v. Montana* asserts that the Rights of the Terminally Ill Act protects prescribing physicians from liability

Adapted from CNN: https://www.cnn.com/2014/11/26/us/physician-assisted-suicide-fast-facts.
Kusmaul, N, et al. Omega, 0(1-18), 2021.

Brief History of MAID in the U.S.

May 20, 2013 - Vermont signs the Patient Choice and Control at End-of-Life Act into law.

January 13, 2014 - New Mexico case *Morris v. Brandenberg* rules in favor, but only for Bernalillo County

November 8, 2016 - Colorado voters approve Proposition 106, which includes the Colorado End of Life Options Act. It takes effect on December 16, 2016.

December 19, 2016 - DC's Death with Dignity Act is signed

April 5, 2018 - Hawaii's "Our Care, Our Choice Act" is signed into law

February 27, 2019 - CA Supreme Court affirms stay of Court of Appeals, making MAID legal

April 12, 2019 - NJ's Aid in Dying for the Terminally Ill Act becomes law

June 12, 2019 - Maine's Death with Dignity law is signed

October 2020 - The National Suicide Hotline Designation Act passes, creating 988.

April 8, 2021 - NM's Elizabeth Whitefield EOL Options Act is passed

Mar. 29, 2022 – Oregon waives residency requirement

Adapted from CNN: https://www.cnn.com/2014/11/26/us/physician-assisted-suicide-fast-facts.
Kusmaul, N, et al. Omega, 0(1-18), 2021.

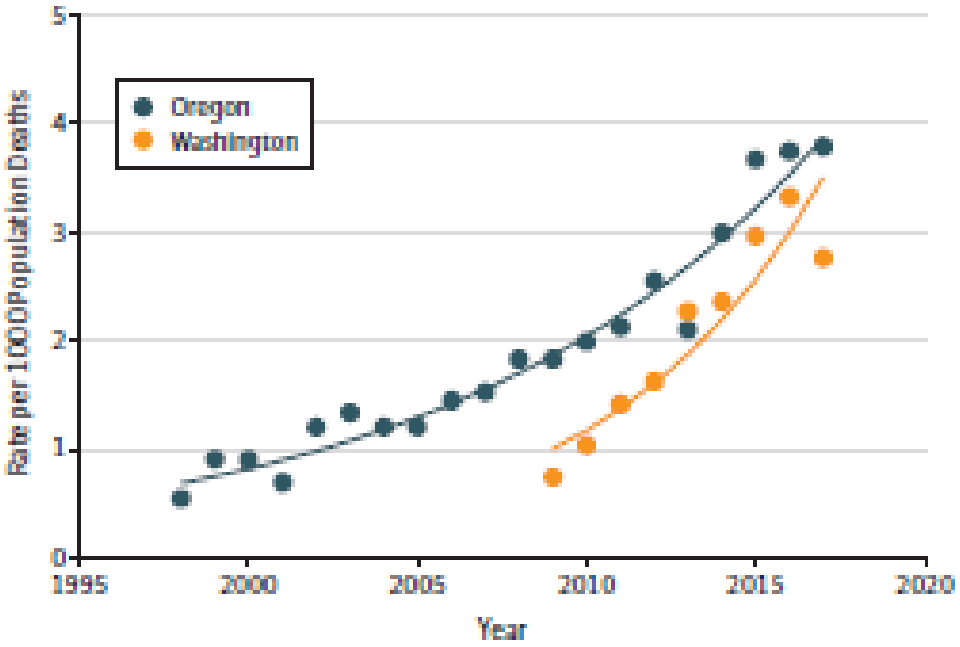
Notable Differences in US Law

- California specifies how interpreters participate, including translation of request forms
- CA, CO, NJ specify disposal of unused drugs
- D.C. allows the mayor to determine rules for how pts inform EMTs of their decision and for educating clinicians
- Hawaii requires a referral for counseling to confirm decision-making capacity and treatment of mental health conditions
- Maine requires the attending physician to speak to the pt alone (aside from an interpreter)
- New Jersey specifies meds will not be delivered by mail or courier
- New Mexico allows ARNP, PAs to prescribe
- Vermont explicitly allows telehealth

Who is Using MAID in Washington and Oregon?

Characteristic	% (N = 2558)
Age, years range	20-102
Male	1311 (51.2)
White	2426 (94.8)
Some college	1830 (71.5)
Insured	2264 (88.5)
Cancer Neurologic condition Lung disease	1955 (76.4) 261 (10.2) 144 (5.6)
Enrolled in hospice	1943 (76.0)

Figure. Rate of Medical Aid In Dying per 1000 State Mortality



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Rabadi LA, et al. JAMA Net Open, 2019 Aug 2;2(8):e198648.

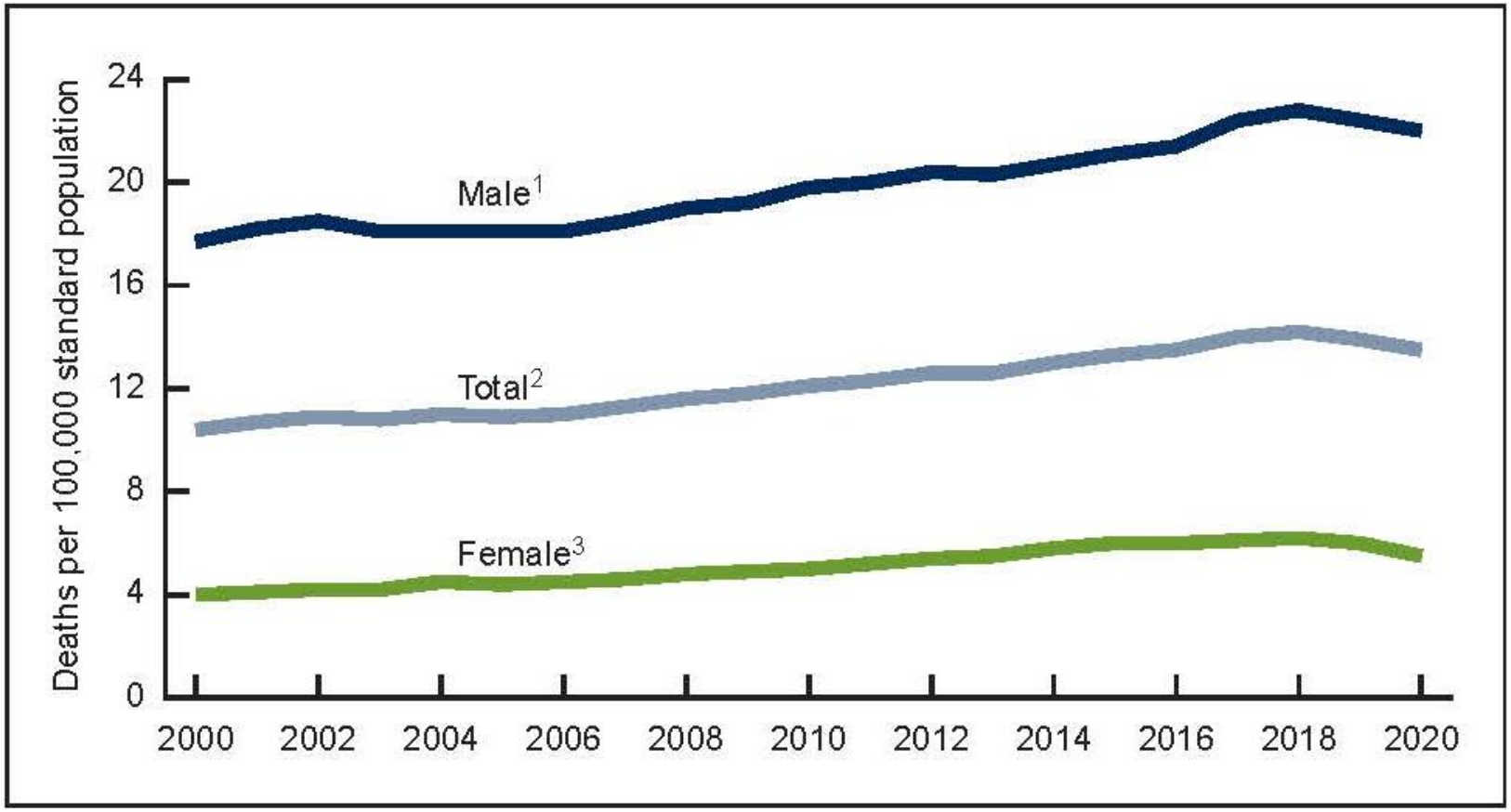
Alternatives to MAID

Alternatives to MAID

- Patient-Driven
  - Hospice
  - Palliative medicine
  - Decisions not to start or to withdrawal treatments (hemodialysis, antibiotics, etc)
  - Voluntary Stopping/Cessation of Eating and Drinking (VS/CED)
- Shared Decision-Making
  - Turning off an ICD, VAD, pacemaker
  - (Palliative sedation)
- Provider and/or Proxy Driven
  - Palliative sedation
  - Terminal extubation
  - Cessation of artificial nutrition, hydration

Suicide in America

Figure 1. Age-adjusted suicide rates, by sex: United States, 2000–2020

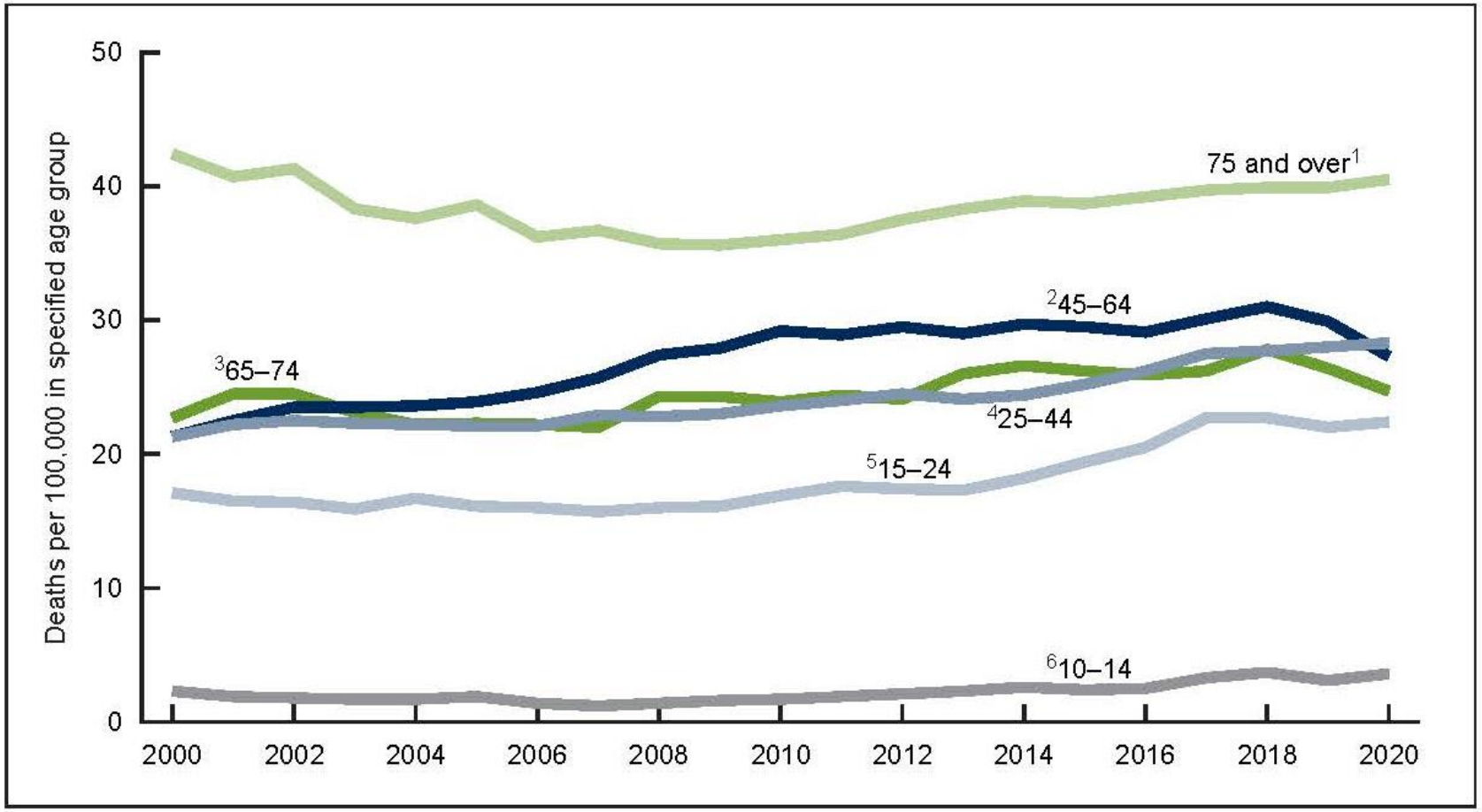


NCHS Data Brief, Number 433, Month 20## (cdc.gov)

https://www.cdc.gov/suicide/

Suicide in America, Males by Age

Figure 3. Suicide rates for males, by age group: United States, 2000–2020



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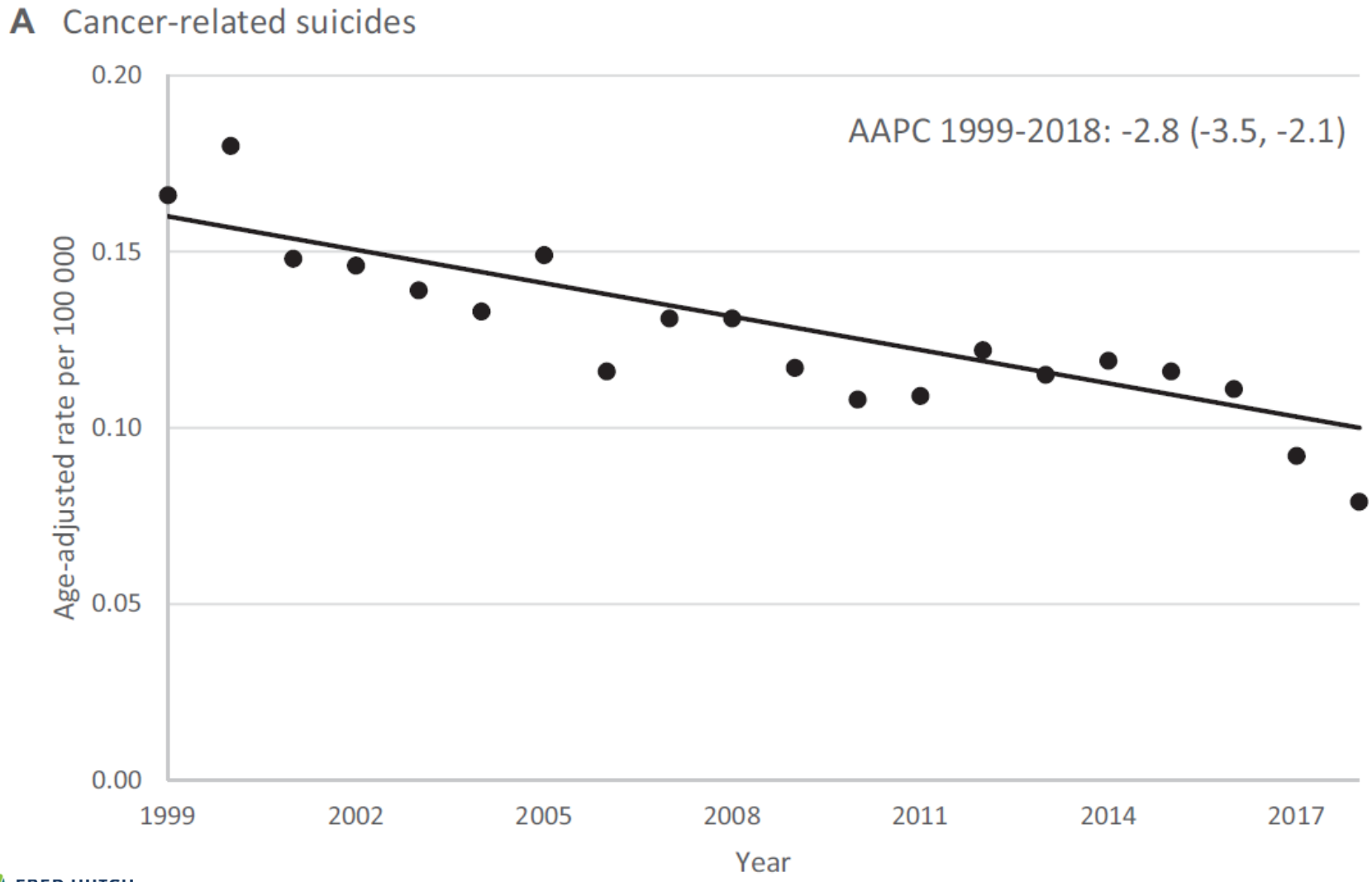
NCHS Data Brief, Number 433, Month 20## (cdc.gov)
https://www.cdc.gov/suicide/

Suicide Risk in U.S. Cancer Patients



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Han X, et al. JNCI J Natl Cancer Inst (2021) 113(9): djaa183.

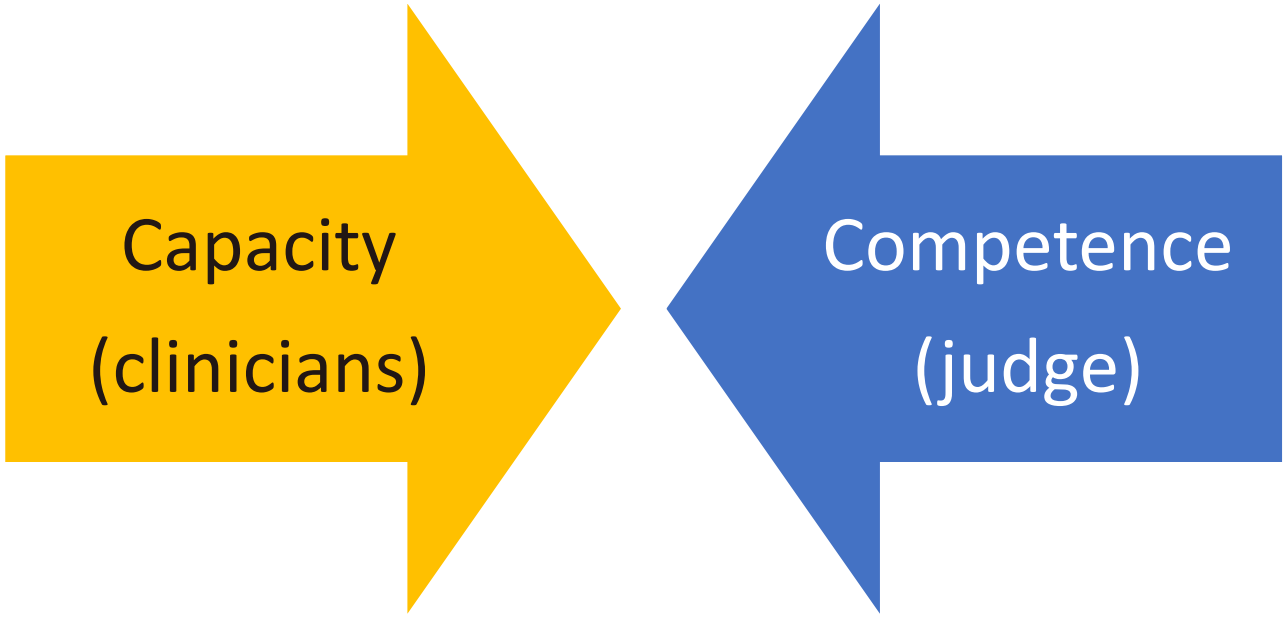
Ethical Considerations

Arguments Against

- Sanctity of life
- Role of medicine and healthcare providers
  - Primum non nocere
  - Diagnostic or prognostic error; changes in treatment effectiveness
- Risk of abuse
  - Underlying social inequities and discrimination
    - Stigma/bias toward mental health, older age, disability and terminal illness; undertreatment
    - Poverty, lack of health or long-term care insurance
    - Social support
    - Access to palliative or hospice care
- Government and/or healthcare involvement in systematic death (slippery slope, involuntary euthanasia)

https://www.loc.gov/item/usrep521702/
Hendry M, et al. Palliative Medicine 27(1) 13–26, 2012.
Kresin T, et al. Int J Environ Res Public Health. 2021 Dec; 18(23): 12327.

Informed Decision



To have capacity patients must:

- Understand the relevant medical information;
- Engage in a rational process of manipulating the information;
- Appreciate the situation, the condition and its consequences;
- Demonstrate a clear and consistent choice.

Appelbaum PS. N Engl J Med 2007;357:1834-40.

Arguments In Favor

- Individual autonomy and bodily control
  - State's interest in preserving life does not outweigh the individual's interest in determining their state of being, in particular at death
  - Similar argument to a patient's right of refusal of treatment (battery)
  - Decriminalization of suicide
  - Unbearable physical, mental or emotional states (dependence/burden, dignity, loss of self, meaning)
- Role of healthcare providers
  - Primum non nocere
  - Right to seek and gain medical council
- Beneficence
  - Relief of pain, physical suffering (limits of medicine)
  - Harms of unassisted death

https://www.loc.gov/item/usrep521702/
Hendry M, et al. Palliative Medicine 27(1) 13–26, 2012.
Kresin T, et al. Int J Environ Res Public Health. 2021 Dec; 18(23): 12327.

Responding to Requests for MAID

Suffering Underlies These Requests

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Rodríguez-Prat A, et al, BMJ Open 2017;7:e016659.

Significance of the Request

End the suffering

Stop the burden on others

Self-determination, control

Preserve meaning and value in life

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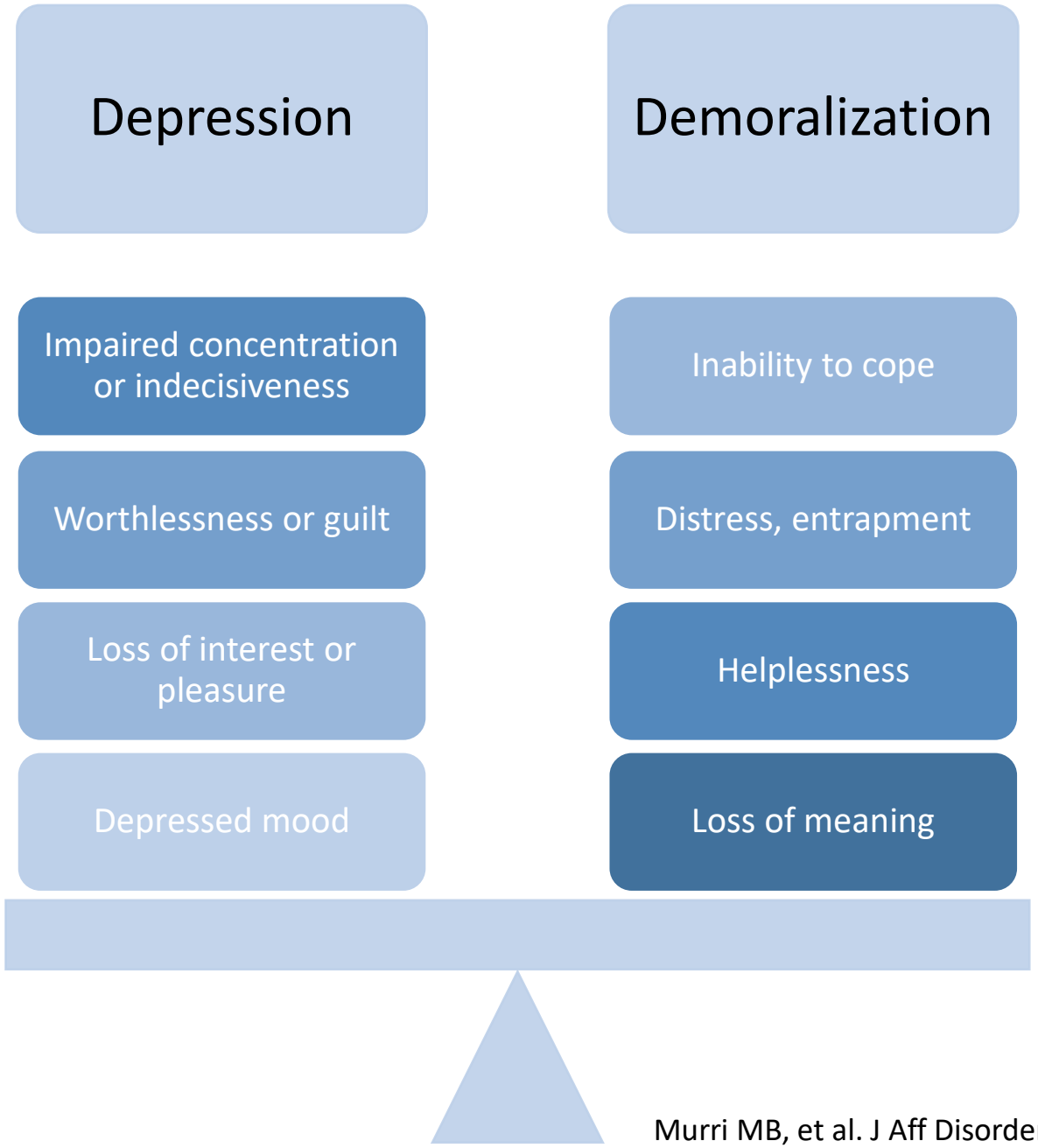
Rodríguez-Prat A, et al, BMJ Open 2017;7:e016659.



DSM-5 criteria.

Murri MB, et al. J Aff Disorders, 276(137-146), 2020.
Robinson S, et al. Cancer, DOI: 10.1002/cncr.30015, 2016.

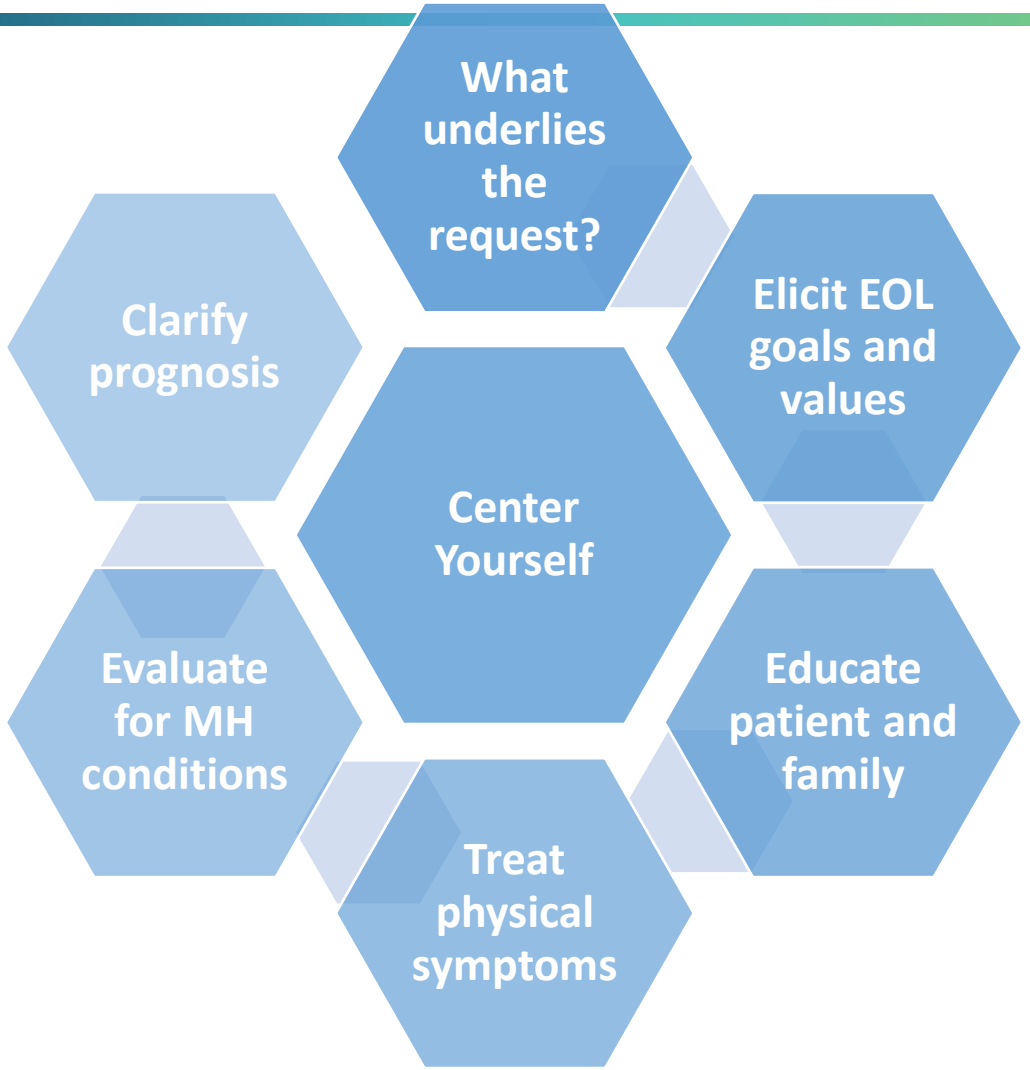
First, know yourself…

Negative Reactions	Positive Reactions

• Feeling fearful, uncomfortable, unprepared or coerced
• Feeling conflicted about the:
  • morality or ethics pt act
  • role of healthcare provider
  • efforts of the patient to receive treatment, consider other options
  • “unnatural death”
• Strain in the dr/pt relationship
• Emotional exhaustion/caregiver fatigue
• Powerless; disappointed in society and the lack of social support
	• Chance to discuss death, existential distress, and ultimate meaning
	• Powerful opportunity to support patients in their goals
	  • rewarding and meaningful experience
	• Increased confidence, being a better doctor
	• Strengthening of dr/pt relationship

Ward V, et al. Palliative and Supportive Care 19, 744–758.

Respond Empathically



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National Comprehensive Cancer Network (NCCN) palliative care guideline v1.2022

Clarify Your Role

If you ***will not*** participate:

- State this clearly
- Convey non-abandonment
- (Direct patient and family to resources)
  - Assist in records transfer
- Create a plan that supports the patient and family

- *Debrief with supportive colleagues, family or friends*
- *Develop self-care practices*

If you ***will (can)*** participate:

- State this clearly
  - Any limitations, prognosis and timeline
- Direct patient and family to resources
- Create a plan that supports the patient and family

- *Debrief with supportive colleagues, family or friends*
- *Develop self-care practice*

Where Do We Go From Here?

Unifying Steps Forward

- **Assistance to providers**
  - Education, responding to requests including conflict management, prognostication
- **Controlling access to and disposal of unused MAID medications**
- **Research**

Upholding our obligation to ensure "all life is valued equally"

- Addressing end of life realities and disparities: caregiver burden; lack of social support and supportive care services; health care and insurance costs; stigma and bias
- Mental health treatment and suicide prevention at end-of-life
- Lack of non-English services and information about end-of-life care broadly, including DWD

Questions?

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