Is the Pain Relief Promotion Act Needed?
A Policy Issue Brief

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Executive Summary

The use of pain medication for physician-assisted suicides has brought about many debates. The controversy began when Oregon passed the Death with Dignity Act in 1997. The Pain Relief Promotion Act (PRPA) of 1999 was introduced to nullify Oregon’s state law and to increase funding for research on palliative care. Some organizations believe that the bill will limit access to pain medication for patients and will cause under-treatment of pain symptoms. Others believe the act will help regulate pain medicine without intruding on state regulations for medicine.

Regulation of controlled substances began in 1970 when The Controlled Substance Act (CSA) was passed. Years later, The Death with Dignity Act was passed into law in Oregon in 1994. This law made it legal for physicians to help their patients commit suicide. In 1998 the Lethal Drug Abuse Prevention Act was introduced. When it was not passed, Senator Nickles and Senator Lieberman proposed the Pain Relief Promotion Act in 1999. In 2001, Attorney General John Ashcroft stated that using controlled substances to assist in suicides is a violation of the CSA.

The American Pain Society believes the PRPA will inhibit doctors from prescribing medicines to patients in severe pain. They believe that the bill will limit patients’ access to drugs that relieve suffering and improve quality of life. The American Medical Association believes the bill is a good law and will provide the regulation needed.

Current trends on the increased use of Oxycontin and prescription monitoring programs show that regulation is needed. The use of Oxycontin has increased to 5.8 million prescriptions per year while prescriptions for other opioids have increased by only 23% in the last five years. States are willing to take steps to stop the misuse of prescription pain medicines.
Part A - Define the Issue

Problem

The use of prescription drugs, especially pain medication, for physician-assisted suicide has brought about many debates. Using pain medicine as a way to die became more controversial when Oregon passed the Death with Dignity Act in 1997 (18). This law made it possible for doctors to help patients commit suicide. In response to Oregon’s law, the Lethal Drug Abuse Prevention Act was introduced in Congress in 1998 (13). This bill prohibits the use of controlled substances for assisted suicides (13). Since it did not pass, the Pain Relief Promotion Act of 1999 (PRPA) was proposed (18). The PRPA focuses on nullifying Oregon’s law and promoting research and education on palliative care (2).

Many organizations believe the PRPA will limit access to pain medication and cause under-treatment of pain symptoms felt by patients (4). On the other hand, organizations such as the American Medical Association believe this act will provide statutory protection for physicians who aggressively prescribe controlled substances to help patients in pain at the end of life (8).

Extent

More than 50 million people have chronic pain while 25 million have acute pain as a result of injury or surgery (7). Even though millions of people are in pain, physicians are under-medicating patients. A poll conducted in 1998 by a New York state task force on pain management found that 71% of 3000 physicians under-medicate patients to avoid being punished by state medical boards (1). Doctors fear incarceration anywhere from 20 years to life as well as having their medical licenses revoked (1). As the PRPA was debated in Congress, 21 pain and
health organizations along with the Drug Enforcement Agency (DEA) wrote a joint statement asking for a “balanced policy governing prescription pain medications” (8).

Public Policy

Regulating the use of pain medicine has been an issue for a few years. Two bills have been written and introduced in Congress to regulate the use of pain medicine. The currently debated bill, the PRPA, requires the government to spend $5 million on pain management and research (4).

Each state has its own laws and federal laws do not interfere with them. However, the PRPA will interfere with Oregon’s state law. The PRPA’s main purpose is to nullify Oregon’s law. Many opponents of the bill are against it because it imposes Congress’s view on states (3).

Part B – History

Question Statement

Should laws restrict the distribution of controlled substances such as pain medication for the chronically ill and dying?

Emergence

Many different drugs are used to control pain for patients. Some of the substances used to control pain are also used for non-medical purposes. With an increasing number of people using narcotics, stimulants, depressants, opioids, and other drugs for illegitimate reasons, the government decided to take action (18).

The first law that Congress passed was the Controlled Substances Act of 1970. This law regulates the manufacturing and distributing of narcotics, stimulants, depressants, and various other substances (18). It also creates a system that requires all individuals and firms to register with the Drug Enforcement Agency (DEA) and to “maintain complete inventories and records of
all transactions involving controlled substances” (18). Congress then went on to amend this act in 1984. The amendment gave the DEA the power to revoke a “physician’s federal prescribing license if he or she uses it to endanger health and safety regardless of whether state law has been violated” (18).

A decade passed before Oregon adopted the Death with Dignity Act. It allowed physicians to prescribe medication for the purpose of assisting patients commit suicide (18). After this state law was adopted research funded by the Robert Wood Johnson Foundation found that half of all dying patients suffer moderate to severe pain (16). This new information led states to pass measures encouraging doctors to treat pain appropriately (16).

Congress then passed the Assisted Suicide Funding Restriction Act of 1997. This act allows “the Federal Government to speak with a clear voice in opposing these practices” (18). The purpose of this act was to enforce the federal policy that no funding will be provided for items or services leading to death (11). A year later, Oregon’s Death with Dignity Act became effective. It resulted in at least 15 physician-assisted suicides within the first year (18).

In response to criticisms and complaints to Oregon’s law, Attorney General Janet Reno wrote a letter in which she claimed, “Congress did not intend to override state determination as to what constitutes legitimate medical practice” (5). During the same year, the Lethal Drug Abuse Prevention Act was introduced. This bill prohibits the use of federally controlled substances (such as narcotics) for assisted suicide (13). Since this bill was not passed, Senator Don Nickles and Senator Lieberman introduced the Pain Relief Promotion Act of 1999 (18). The act provides federal support for training and research in palliative care and it clarifies federal law on the legitimate use of controlled substances (18). Towards the end of 2001, Attorney General John Ashcroft told the DEA that the “prescribing of a controlled substance for
physician-assisted suicide is in violation of the Controlled Substances Act, and that Oregon physicians who participate in physician-assisted suicide will be prosecuted under federal law” (10).

Currently, debates surrounding this act are being discussed. Some of the issues being debated are about the consequences of restricting or not restricting access to pain medication. Some believe if access to pain medication is restricted, the ill and dying suffer (4). Others say if access is not restricted, physician-assisted suicides will increase (18).

**Chronology**

1970 – The Controlled Substances Act (CSA) of 1970 was passed (18).

1984 – Congress amended the CSA in regards to the misuse of prescription drugs in lethal overdoses (18).


1997 - Congress passed the Assisted Suicide Funding Restriction Act of 1997. (11).

1997 – Oregon’s Death with Dignity Act became effective (18).

1998 - Attorney General Janet Reno said that Oregon could use federally controlled substances for assisted suicide (5).


2001 – Attorney General John Ashcroft Attorney made a statement to DEA (10)
Trends

Access

Access to pain medication is at the core of the Pain Relief Promotion Act. The American Pain Society believes this bill will limit access to medication (8). Denying patients access to drugs that relieve suffering will lead to less productivity and more suffering (8).

Quality

The quality of care patients receive, in terms of pain management, has decreased over time (16). Pain increases in patients as more restrictions are put on dispensing medicines. Some 50 million older Americans suffer chronic pain each year (16). Experts say doctors “frequently under-treat patients’ pain because they fear lawsuits or investigations by state medical boards for prescribing painkillers” (7).

Cost

Inadequate treatment of pain leads to needless suffering, lost productivity, and excessive healthcare expenditures (8). Healthcare expenditures increase every year. Currently, the average person spends $4000 per capita on health expenditures (12). However, in Oregon an average person spends $3303 per capita on health expenditures (21). Those over 65 years old pay an average of $12,000 per person for services, and those over 85 incur charges of $20,000 per person (12). Cost projections indicate that when our nation’s baby boomers reach their late 70s and 80s, healthcare costs will soar to 25 percent of the GDP (12).

As access to pain medication decreases, quality of care goes down. To keep quality up, access is important. The government needs to find a way to balance access and quality.
Part C – Stakeholders

Dispensing medication for pain management has become a controversial issue over the past few years. Different stakeholders have become actively involved since the Pain Relief Promotion Act of 1999 was passed. Stakeholders include the federal government, the state government, physicians, pharmacists, and pain groups representing patients. This brief will primarily focus on the contrasting views of the American Pain Society (APS) and the American Medical Association (AMA). These two groups differ on whether the use of pain medication should be regulated.

The American Pain Society (APS)

APS is an organization comprised of “basic and clinical scientists, practicing clinicians, policy analysts, and others” (14). It aims to “advance pain-related research, education, treatment and professional practice” (14). The organization is affiliated with the American Pain Foundation. This group represents pain patients and lobbies on their behalf (7).

Position

APS does not favor the Pain Relief Promotion Act of 1999. The group feels that this bill will “infringe on the ability of physicians to prescribe medications as needed for patients in severe pain” (8). They want to make sure that regulators do not deny patients access to drugs that relieve suffering and improve quality of life.

Resources

APS has more than 3,600 members from various disciplines. The annual budget is set at $2,002,155 (9). This money covers public relations, web enhancements, research, and operating costs. The organization also publishes The Journal of Pain (14). It provides a forum for
clinicians, researchers, basic scientists, and others to publish original research and explore controversies (14).

**Government Action**

This group has testified in front of a Congressional subcommittee to urge the federal government not to regulate potent opioid medications. They want Congress, the Food and Drug Administration, and the Drug Enforcement Administration to make efforts to train physicians in the proper treatment of pain instead of regulating access to medications (8). The APS is influential in that the organization has testified in front of Congress many times for different purposes.

**American Medical Association (AMA)**

AMA is an organization that has been established to develop and promote standards of medical practice, education, research, and advocacy on behalf of medical professionals. They aim to provide information about health topics in a timely manner (19). The organization was founded over a 150 years ago based on its “commitment to excellence, ethics, medical education and practice, and advocacy on behalf of the medical profession and its patients” (19). The AMA is regarded as the top medical organization and is well known for its achievements.

**Position**

AMA continued to support “a bill that regulates the use of pain medication, despite objections from doctors who said the measure would be an intrusion into state-regulated medicine” (6). AMA delegate Dr. Rex Greene believes that “this is a good law” (6). They believe the bill will provide physicians protection for prescribing pain medications aggressively to help patients in pain (8).
Resources

The AMA represents over 300,000 doctors and healthcare professionals. Their annual operating budget is set for $249.8 million dollars (19). This money will be used to fund researching, publish journals, and fund other operating expenses. The AMA has contributed many different parts of the medical field. It is a leader in health policy and advocacy. Research done by the organization has been used when developing policies. Recently, the AMA testified to have the 5.4% Medicare payment cut stopped (19).

Government Action

The House of Representatives passed the Pain Relief Promotion Act with the backing of the AMA. The group wants to work with state and national societies to improve parts of the bill (6). Of the 550 AMA delegates nearly 500 voted in support of the bill (6).

Part D-Trends

Trend 1 – Oxycontin Prescriptions

Oxycontin was introduced in 1995 to treat severe to chronic pain. The medicine has a controlled release formulation of Oxycodone in it (7). Since the medicine, when crushed, enables abusers to “circumvent the controlled release mechanism and to swallow, snort, or inject the drug for a more rapid and intense high,” an increase in criminal activity has occurred. Pharmacy robberies, forged prescriptions, and theft of the drug from patients with a legitimate prescription are ways that abusers access Oxycontin. Some abusers, with or without legitimate complaints, visit numerous doctors to receive prescriptions (7).

Over the past 5 years, the number of prescriptions written for Oxycontin has increased to 5.8 million per year while prescriptions for other opioids have increased by only 23% (12). Figures 1 and 2, in Appendix A, show the increased use of the medicine since 1996. The
increased use and abuse of the medicine has caused lawmakers to regulate access to it. The Pain Relief Promotion Act is aimed at limiting access to controlled substances such as Oxycontin. Lawmakers want to make sure that no other prescription drugs will be used for non-medical purposes.

**Trend 2 – Prescription Monitoring Program (PMP)**

The Prescription Monitoring Program is used to monitor the prescribing of certain controlled substances and to detect illicit prescribing and dispensing (17). Seventeen states are currently enrolled in the program. Since 1988, more states have joined the program and shifted from using forms to electronic monitoring systems (17).

Monitoring prescriptions is a way to prevent the abuse of controlled substances while ensuring their availability (17). The increased use of the program by states can be seen in Figure 3, Appendix A. The fact that states are willing to enroll in monitoring programs shows that they want to prevent the abuse of drugs.
Appendix A – Trend Figures

Figures 1 – Number of Oxycontin Prescriptions from U.S. Department of Justice

Figure 2 – Number of Opioid Prescriptions from U.S. Department of Justice

Figure 3 – Prescription Monitoring Programs from the University of Wisconsin
Bibliography


Appendix A
Trend Figures