

Episode 9–Why should one church decide for all of us? Death with Dignity in Oregon

[SUICIDE WARNING]

[PRAYER BELL CHIMES]

[Ethereal female voice]: There is no death. There is only me, me, me who's dying.

Brittany Maynard, YouTube: I can't even tell you the amount of relief it provides me to know that I don't have to die the way it has been described to me that my brain tumour would take me on its own.

Andrew Denton: This YouTube video made by a young Californian woman dying of brain cancer has been viewed more than 11 million times. Its impact has been profound.

Brittany Maynard: I hope to enjoy however many days I have left on this beautiful earth and spend as much of it outside as I can surrounded by those I love. I hope to pass in peace.

Andrew Denton: Brittany Maynard was just 29 when she left her home state of California to go and live in Oregon, a state where the world's longest running assisted dying law offered her a choice about her final days. Incredible to think that a religiously conservative country like the USA could give rise to such a law. Even more incredible, is that, 18 years later, more and more states are adopting it. Oregon's Death with Dignity law re-wrote the map about assisted dying in America. Its success has left opponents with a big problem: how to discredit something that even its critics acknowledge, works?

[OPENING TITLES]

Andrew Denton: My name is Andrew Denton, and you're listening to *Better Off Dead*.

[AUDIO EXERPTS FROM 1996 NEWS STORY ABOUT NT EUTHANASIA LAW]

Andrew Denton: It's 1997 and, in Australia's Northern Territory, the world's first experiment with a euthanasia law has just been snuffed out by a conservative federal government.

But across the Pacific, in the US state of Oregon, an end-of-life law is coming into effect after a long and bitter battle.

How it came to be, in religiously conservative America, stands as a master class in public policy – one that set the template other US states have since followed.

So I've decided to come to Oregon to find out how their law works, and to meet the two men who played pivotal roles in getting it onto the books. They are the Odd Couple of America's assisted dying movement – one a careful lawyer, precise of word and deed, the other a retired British journalist, once dubbed "the Anti-Christ" because of his refusal to be quiet about how people really die.

Eli Stutsman: Well you have in this area, when you attempt to pass Death with Dignity reforms, you have a perfect storm of law, medicine and faith.

Andrew Denton: First, Eli Stutsman, attorney at law, with offices in Portland, Oregon, a primary author of Oregon's Death with Dignity Act, and its lead political strategist.

Eli Stutsman: Really what I did at the time was I took an issue that was on the political left of the spectrum and I drug it to the political middle. It was a painful fight to get it there. Nobody is going to win anything on any issue as long as that issue is out on the ends.

Andrew Denton: What drew you to the issue?

Eli Stutsman: Undergraduate studies in religion. In an ethical course there was a case study that involved a patient, and he was end-stage renal failure, on dialysis, made a decision to withdraw life-support, and having made that decision, he was going to accelerate or hasten his own death, and the next question for him and of course the case study in the textbook, if he has made a decision to end his life by terminating support, why can't he go one step further and hasten his own death? And I thought that was a very fair question, and by the end of the case study the physician had convinced the patient that the patient was not only wrong but it was the wrong question to ask. And the patient in that case study actually apologised for having raised the question. And I took issue with that.

Andrew Denton: The spur for Eli Stutsman to fight for assisted dying was ethical. For expatriate English journalist Derek Humphry, it was completely personal.

Andrew Denton: Hello, Derek. Hello, Andrew Denton. What a beautiful part of the world! I've never been here before.

Derek Humphry: Yes, I thought you'd enjoy it.

Andrew Denton: Derek lives at the end of a road deep in the woods outside Eugene, Oregon.

This is what in Australia we call a man cave.

Derek Humphry: I call it the engine room.

Andrew Denton: Now 85, for 40 years Derek has uncompromisingly fought for laws to help people die more humanely – a passion driven by the lingering death of his first wife, Jean.

In 1975, after an exhausting and painful battle against breast cancer, Jean asked Derek to find the drugs to relieve her of her torment. Helped by a friendly doctor who insisted his name be kept out of it, Derek complied. Finally one morning, as Jean lay wracked in pain at home, she could take no more.

Derek Humphry: She was a very blunt spoken woman, a Lancashire woman, very straightforward. And she said, “I’ll die at one o’clock today” – straight like that. And we spent the morning together talking and playing our favourite music and going over the marriage and a couple of rows that we’d had. And she gave me permission to marry. And she said, “I’ve said to the boys they must accept whoever you choose to marry, if you do”. I was amazed when she said that. I burst into tears. [Laughing] Anyway we got to one o’clock and I thought, “If she doesn’t say anything, then I’m not going to do anything. It’s her decision”.

But at one o’clock she said, “Look at the clock – go and get it,” she said. So I went and got the drugs and mixed them into a cup of coffee, put in lots of sugar, in a mug, her favourite mug, brought it back, and put it on the bedside table. She said, “Is that it?” I said, “Yes, if you drink that cup of coffee, you will die”. Then I got on the bed and gave her a last hug and a kiss and we said goodbye, then I got off the bed and sat beside her so that she could drink properly, and she picked up the mug and gulped it all down. No hesitation

whatsoever. And she just had time to say, “Goodbye, my love,” and she became unconscious. It worked that fast; It was very powerful. And I sat there in pure astonishment at her courage and the way she’d worked things out.

Andrew Denton: An investigative journalist for London’s *Sunday Mail*, Derek knew he’d broken the law and could be up for 14 years in jail. But as he checked the records he discovered that otherwise law-abiding citizens had been doing the same thing for years and not been sent to prison, even though they’d been dragged through the courts on a charge of assisted suicide.

Sensing an injustice, Derek moved to California and set about writing the book that would turn the euthanasia debate on its head. Published in 1991, it was called *Final Exit*.

Derek Humphry: Well the universal truth is that everybody wants to die quickly and peacefully, but everybody wants to live as long as possible, of course, but the end comes for us all, and people think about “How shall that then be for me?” Now the vast majority of people do die in an OK manner, but there's some – I would say 10% of deaths are slow, undignified, distressing and those people want to know, in an intelligent fashion, how they can accelerate the end perhaps in the presence of their family and friends, non-violently, peacefully and quickly.

Andrew Denton: Derek was warned the subject was taboo and that a book advising people how to die would be abused. No publisher would touch it. So he published it himself.

Derek Humphry: And first of all nobody noticed it but one day after about six months, the *Wall Street Journal* did an article, on its Friday page, about *Final Exit* and who liked it and who hated it and who thought it was appalling. The next week it was a bestseller across the country. I kept on having to print 100,000 every week. I was staggered. I was called anti-Christ of the month and things like that, but I didn’t mind and it stamped up the sales.

Newsreader: The jury did not convict Jack Kervorkian of first degree murder, they opted for the lesser, second degree, charge. They also convicted him of illegally delivering a controlled substance, Phenobarbital without a medical license.

Andrew Denton: By 1994, Eli and Derek found themselves working side-by-side, campaigning for an assisted dying law in Oregon. Similar proposals

had already been defeated in Washington and California, not helped by nationwide publicity for Dr Jack Kervorkian, dubbed “Dr Death” by the media for helping over 100 patients to end their lives.

Eli Stutsman: He was clearly a maverick and didn't recognise any limitations, and ultimately went to prison for it.

Andrew Denton: Eli Stutsman.

Eli Stutsman: He was a physician, but he didn't care for patients and certainly not terminally ill patients, and so he didn't speak with any credibility from his experience as a physician. And there was a side to him that was a bit odd, and then if you further understand that he had created a machine that suspended bottles from a small rack with an IV needle into a patient's arm. A patient could trigger the machine and bring about their own death. It was illegal, so he would do this, for example, in the back of a Volkswagen van in a public park. We would never do that as a matter of public policy. That's no way to practise medicine.

Andrew Denton: Derek Humphry had strong memories of Kervorkian too.

Derek Humphry: He phoned up and asked to see me. I'd heard of him. And he came into my office and he said, “I'm starting a suicide clinic. Will you send me the patients to die?” I said, “No”. And he was shocked. I said, “Look, I believe that this is something that's got to be carefully done, ideally in the home with the medical advisers, with family present”. I said, “Getting in a taxi and going to your clinic is going to hold us up to criticism; be ready for abuse”, and I said, “That's not what we are fighting for, I can't act unlawfully with you and at the same time try to change the law”. And he got up and shouted something, “Oh you're a shame, you don't really believe it!” and stomped out of the office. He couldn't believe that I wouldn't help him.

Andrew Denton: Eli Stutsman saw the bad publicity around Kervorkian as an opportunity to distinguish their campaign from him. Whenever he was asked, he stated that under the law they were proposing for Oregon, Kervorkian would be thrown into jail.

Eli Stutsman: We did not repeal the assisted suicide law in Oregon. It is still a crime to commit assisted suicide. What we did was we created and passed a public policy that in narrow circumstances involving a dying patient that you might be able to allow the patient to hasten his or her own death. That's very different than what Kervorkian did.

Andrew Denton: The Death with Dignity Act that Eli, Derek and others put to the voters of Oregon was based on very careful research into exactly what was happening with assisted dying in that state.

Eli Stutsman: The breakthrough was when we realised it was already happening and how it was happening. Then the task was to reduce it to written policy.

Andrew Denton: The Oregon team closely studied the failed attempts to introduce legislation in other states.

Eli Stutsman: The proposals in Washington and California would have allowed lethal injection or euthanasia. Advocates aside – I didn't discover one patient, one family member that wanted that. What I discovered was patients that were already obtaining medications on their own, sometimes with the help of their physician, sometimes by hoarding, but they were doing this, they wanted information, sometimes they were getting the information too. And that's what people really wanted. Once I understood that, and we had that experience uncovered, then we could write a law around it.

Andrew Denton: Inside the camp there were divisions over whether a patient should drink life-ending medication or a doctor should administer a lethal injection. Derek Humphry argued for injection.

Derek Humphry: I was wrong and he was right in the debate we had almost 20 years ago now – that doctors, certainly American doctors, don't mind this indirect way of ending the patient's life but they don't like the idea of injection of lethal substances into their patient in front of them.

Andrew Denton: It was critical to get this right – because if doctors opposed it, then that would mean the end of Oregon's bill.

Leigh Dolin: As a group of doctors, the Oregon Medical Association is not a particularly leftie group. Doctors are pretty conservative.

Andrew Denton: Leigh Dolin had just been elected President of the OMA, Oregon Medical Association, when the debate engulfed Oregon's doctors.

Leigh Dolin: So when we began the discussion about assisted suicide my prediction was that the OMA was going to come out against assisted suicide because I thought it is a conservative organisation. The people that introduced the resolution gave their initial comments and then we had,

basically, a two and a half hour heartfelt discussion. And doctors who were pretty conservative politically started getting very personal. They talked about my mother when she was dying of cancer. I had this patient who I really loved, and his suffering was unbearable to watch. What they really said is that this is not an easy decision.

You can't just say, "Well, we are supposed to support life, at all costs," because doctors know that isn't true. Relieving suffering, yes. But the issue of assisted suicide turns out, most of the doctors felt it was more complicated.

Andrew Denton: Leigh himself had reservations.

Leigh Dolin: I talked to the chief petitioner for the ballot measure and I said to him, "You know, doctors have been doing this for years but just not documenting it, why do you want to bring this out into the open? You're just going to cause a lot of trouble. There are going to be people yelling and screaming at each other". And he said, "Well, this is the right thing to do. It is not right to be dishonest and secretive. If we believe this is the right thing to do, then we should be open about it and we should discuss it." And after two and a half hours of this discussion it became clear that we would not reach a consensus on the issue. And what we decided is to take no position.

Andrew Denton: What influence do you think that neutral position had on the law eventually being passed?

Leigh Dolin: I think it has a major position. I think the fact that the Oregon Medical Association, which of course people would think would have the expertise on the issue of dying patients. The fact that we took a neutral position on it meant it wasn't necessarily wrong to do it. I guess that is what it meant. The voters said, "Gosh, the Oregon Medical Association is not telling us this is a terrible thing to do. We need to think about it, we need to make our own decisions". What the OMA was saying is the decision about assisted suicide is not a medical decision; it is a moral decision. And this kind of moral decision is not something where doctors have the answer.

Andrew Denton: For Oregon doctors, this was uncharted territory. Even those who supported a law had concerns: Would the law protect them if they helped a patient end their life? Would there be anonymity? What if you gave the medicine and the patient didn't die?

Leigh Dolin: So there were all sorts of practical concerns. But once again, I think the doctors who felt it was the patient's right were willing to say that all

these practical things can be worked out, ultimately, if we feel that the patient has the right to do this, we need to let the law pass and do our best to work with it to make it work as efficiently and as positively as possible.

Andrew Denton: Eli Stutsman and the rest of Death with Dignity team crafted and re-crafted their proposed legislation, building in safeguards to counter doctors' concerns and their opponents' objections – particularly about the elderly and the disabled being made vulnerable.

Eli Stutsman: Well the key factors are that it has to be a competent adult patient and they have to be able to make their own decisions, so no minors, and if you have lost your competency, nobody can make a substituted decision for you. You have to have an attending physician and a consulting physician, both practising in the area of the terminal disease. They need to reach a prognosis – the attending physician that you have six months or less to live, and the consulting physician needs to reach a similar prognosis. The point is we have purposefully limited the Oregon Death with Dignity Act to those circumstances where death is imminent and the patient is acting voluntarily and wilfully and is competent.

Andrew Denton: Derek Humphry explains how the law was designed to protect not only the vulnerable but also doctors and nurses who didn't want to participate.

Derek Humphry: A person who is disabled or a person who is very old cannot necessarily use this law – not on those grounds alone. They would have to be terminally ill as well as old or infirm. And we have a conscience clause – we put in a conscience clause that doctors or nurses or pharmacists can walk away from this. They need not be involved, and there is no punishment or stigma by walking away from this on your ethical religious grounds or whatever grounds. You can just say, “No, I don't want to be involved in this, thank you”.

Andrew Denton: Other safeguards were built in. Any request had to be made orally and in writing. All other treatment options had to be explained to you. 15 days after the first request, a new, oral, request had to be submitted. And at the end of all that, if all the requirements of the law had been met, the doctor would supply you with a prescription for life ending medication, that you – and only you – could choose to take. To become law and make history the proposal crafted by Eli, Derek, and others needed to win a popular vote at a state-wide referendum. The opposition was fierce.

Derek Humphry: The opponents said, “People will be flocking to Oregon to kill themselves”. They actually said there will be people dying in the parks and in the restrooms and people who don't really want to die will be pushed to an early death and that sort of thing.

Andrew Denton: Do you remember what their advertising said at the time?

Derek Humphry: That this, you know, is the start of Nazi-type euthanasia and that type of thing.

Andrew Denton: The language was that strong?

Derek Humphry: Oh yes, yes. It got into a very, very dirty fight.

Andrew Denton: Eli Stutsman recalls that one opponent stood clearly above the rest.

Eli Stutsman: Our opponents would like to suggest that organised medicine opposes Death with Dignity reforms, and I can assure you that if all we had to do was fight organised medicine, we'd have almost no fight at all. Our money and the battles that we fight actually come from predominantly the hierarchy of the Catholic Church.

Andrew Denton: Eli's strategy was to treat the Church with respect, accept their moral objections, and not attack them head on. Research had shown, however, that the most trusted voice in the debate belonged to nurses. That voice was used to powerful effect.

Eli Stutsman: We had a line in one of our paid advertisements that was very simple, and the line was this: “When did we decide to let one church make the choice for all of us?” It was delivered powerfully by a woman by the name of Patti Rosen, who was a mother and a nurse, and she'd helped her daughter die – still, as you can tell, an emotional story for me to tell – and I was there when we produced this political ad. And Patti delivered that line, and we all fell silent – I mean just a hush went over everybody present – it was so powerful. We didn't mention the church by name – we didn't have to. It was all we needed to do and say.

Andrew Denton: In November 1994 the people of Oregon voted in favour of the bill by 51 to 49%.

Derek Humphry: And then the day after it passed our opponents, the Right to Life movement rushed into court and found a judge, a (INDISTINCT) judge, and got an injunction and stopped it.

Andrew Denton: For three years the legislation was held up in court. In 1997 it went back before the voters of Oregon. This time it was passed by 60 to 40.

Eli Stutsman: The nice thing about this issue is there is truly majority support. I have not seen a survey in any state in this country or any others country surveyed where the citizens, the people had anything less than majority support. There is plenty of room for disagreement. And if those in the majority are modest in what they pursue in their reforms and they are considerate, and they allow the churches to disagree and the physicians to disagree, to opt out and make room, you have a great chance for success.

Kevin Yuill: Oh my goodness. Do we hear about Oregon in the UK? Oregon is the great darling baby that has turned out perfectly and has done so well and Oregon is: “Look, nothing you’ve said has ever taken place in Oregon!”

Andrew Denton: This is Kevin Yuill, an academic specialising in American history, addressing an international anti-euthanasia symposium in Adelaide in 2015. Like many opponents, Kevin finds Oregon to be an inconvenient truth.

Kevin Yuill: My basic line is: Don’t look at Oregon; look at Belgium if you want to see the future of institutionalising a culture of assisted suicide.

Andrew Denton: Perhaps Kevin doesn’t want to look at Oregon because, after 18 years in existence, the facts are impossible to argue. So tightly written is its law, applying only to terminally ill people with six months or less to live, that the number of people who use it is less than half of one percent of all the people who die there. On average, every year, that’s about 100 out of 35,000 deaths – a statistic that hasn’t changed in 18 years, and a nightmare for those who argue the slippery slope. Desperate for purchase, they seek other lines of attack.

Alex Schadenberg: In fact we have seen a higher suicide rate going up in Oregon, so the reality of the assisted suicide it actually worked as a suicide contagion effect, so when you are arguing that argument, it is assuming that...

Andrew Denton: Alex Schadenberg is a Canadian opponent urging me to examine the phenomenon of “suicide contagion” in Oregon. It is an

accusation also being talked up at the conference by former New Hampshire legislator Nancy Elliott.

Nancy Elliott: Suicide contagion is another very good thing to point out to your, you know, committees, and it has worked very well in the States. The statistics out of Oregon are consistent with a suicide contagion. We all know that when Grandma and Grandpa commit suicide, it makes it that much easier for their children and grandchildren to say, “Oh this is what you do when life gets hard”.

Andrew Denton: Litigation attorney Catherine Foster takes it one step further.

Catherine Foster: After Saddam Hussein was hanged, the rate of suicide rose. Young men were hanging themselves. And there is a link between prescribed suicide and regular suicide. Places that have legalised prescribed suicide have seen an enormous increase in deaths by non-doctor suicide. In Oregon the suicide rate has skyrocketed.

Andrew Denton: So have these laws led to suicide contagion in Oregon? Oregon’s State Health Officer is Katrina Hedberg. One of her duties is to report on who uses the Death with Dignity laws.

Katrina Hedberg: The Oregon Public Health Division was assigned the job of keeping track of the data and to issue a report. I give that background because it means that I really don’t take sides in the debate.

Andrew Denton: I put to her concerns about suicide contagion.

Andrew Denton: Something that Alex Schadenberg mentioned was the “suicide contagion effect” – the implication being that in some way the assisted suicide law here had increased or added to the increase of suicide in Oregon.

Katrina Hedberg: So we do track suicide, just like we track Death with Dignity, and suicides in Oregon have been higher than the national rate, but that’s been going on for...decades. We have not seen any change, if you will, in the statistics around rates of suicide in Oregon before or after the Death with Dignity Act took place. So what I would say is that in Oregon when it comes to suicide, the risk factors for suicide include a history of depression, of mental illness, of previous suicide attempts. We know who is particularly at risk – older men who might be widowed, their wife has died; veterans are

at high risk of suicide. We have a number of groups, and they're very different than the people who participate in Death with Dignity, who tend to be equal parts men and women, again the average age of 70, and many of them are married and they have all been diagnosed with a terminal illness by definition otherwise they could not participate. So I would say that there is nothing in our data to show that.

Andrew Denton: Fact. There is no evidence of suicide contagion in Oregon as a result of their Death with Dignity law. But this was not the only opponents' claim I had come ready to explore.

Mr Schadenberg says there has never been a study that looked at all the deaths and showed you that the law was followed correctly.

Katrina Hedberg: I don't understand the comment, because we do look at all the deaths in the state of Oregon, and we look at all of the reports from Death with Dignity, and we keep track and we match those, and when it's a little unclear we call the doctor's office back up. We have a whole team of people whose job it is to look at death certificates – they're called nosologists – and to query any of the deaths that look unusual or things that they are not able to discern exactly what the cause of death and they call funeral homes, they call physicians and they make every attempt. So we have a pretty sound system of investigating.

Andrew Denton: To the question of the slippery slope, do you see any evidence of people being coerced, people who are considered vulnerable, such as the elderly or those with disabilities or those with economic issues?

Katrina Hedberg: That's the other thing we've noticed is that it's not people who are poor or disadvantaged; in fact it is the opposite. Those tend to be people not only who have gone to university or gone to college but actually have graduate degrees – so lawyers, professors, people who are very well educated who are really using this as a choice. So I have not seen any evidence that it has really changed from very well educated, again, average age of 70 years, primarily white and equal parts men and women. There haven't really been any trends in who has participated over the past 18 years.

Andrew Denton: The more I learnt about the success of Oregon's law, the more I began to understand the desperate nature of attempts to undermine it. Nancy Elliott again.

Nancy Elliott: The other thing that we point out is when suicide is a treatment option, all care goes down, because in Oregon, where it's legal, they have denied care to patients yet said, "But we will pay for an assisted suicide for you, we will pay for your lethal dose". I mean that's just the tip of the iceberg, but once doctors say, "Oh this type of cancer – everybody goes for assisted suicide," they are no longer going to want to give anybody treatment.

Andrew Denton: Has this been the experience in Oregon? Dr Leigh Dolin from the Oregon Medical Association.

Leigh Dolin: I'm not sure why people say that. If anything, it would be the opposite.

The first question is not to talk about assisted suicide but to say, "Well, what have you been taking for the pain? Tell me about it." Or, "I'm such a burden on my family." "Well, can we get you help at home?" I mean talk about what the real issues are.

Can we get you a visiting nurse? Can we get you a caregiver during the day? Does your daughter need a break?" So the doctor and the patient are encouraged to have all these discussions about the issues that people have when they're dying, in order that the question about assisted suicide maybe won't have to come up at all.

Andrew Denton: What impact has the law had on end-of-life care and palliative care in Oregon?

Leigh Dolin: The silver lining is, I think, that end-of-life care in Oregon, palliative care, has been far better since the assisted suicide law passed. Because patients are empowered, so the patient knows, "I can always bring up this assisted suicide question," and the doctor knows that the patient can always bring that up, and the doctor doesn't want the patient to bring it up. So the doctor and the patient are going to really work hard to do a heck of a better job with the patient at end-of-life in terms of comfort and all sorts of things so that the patient doesn't have to bring up this issue.

Andrew Denton: If the law hadn't been passed, how would Oregon be different today?

Leigh Dolin: I think we do a much better job because of this law.

It's done exactly what it's supposed to, and more. It's allowed people to make the decision to end their lives when they have a terminal condition without being at the mercy of the medical profession and I think there's an acceptance even among the opponents of assisted suicide that this is the law, it's in place, the public has voted twice to approve the law and it's just part of medical practice in Oregon. It's just something that patients and doctors are allowed to do.

Daniel Lee: I am Dan Lee. I am the Marian Taft Cannon Professor in the Humanities at Augustana College in Rock Island, Illinois, and I am also the director of the Augustana Center for the Study of Ethics.

Andrew Denton: Daniel E Lee, one of the United States leading ethicists, was – and remains – an opponent of assisted dying.

Tell me about your moral reservations. What are they?

Daniel Lee: They come from a religious perspective. I believe that life is a gift from God – a very precious gift from God – to be treasured and preserved and that suicide, be it in time of illness or in any other situation, is to reject that gift of life.

I see many people who share my conservative views on physician-assisted suicide believing that they have the right to impose their views on other people, and I don't think that's the case.

Andrew Denton: Daniel has studied Oregon's Death with Dignity law very closely.

Can I take you back to the mid-nineties, when this was first put forward as a proposition – did you believe at the time that it was a law that could be made to work, or were you concerned, as many people are, about the ability to safeguard the vulnerable?

Daniel Lee: Safeguarding the vulnerable is tremendously important, and what I was particularly interested in seeing would be how the vulnerable would be protected and safeguarded in this law. I also had concerns about the possibility of this being on a slippery slope, resulting in things such as involuntary euthanasia without the consent of the suffering individual. But as I saw how the law developed and I read the annual report on the Death with Dignity law put out by the Oregon health department and looked at the statistics, I have been reassured that there are adequate safeguards in the Oregon law to prevent abuses from happening.

Andrew Denton: Yes, you take more than a passing interest, don't you? You look at the statistics quite carefully each year. Is that correct?

Daniel Lee: That is correct, yes. It's an issue that I teach about in my classes and I have written about, so I do have a certain academic interest in the issue. The Oregon law, by limiting this to medications that can be taken by the patient if she or he wishes, places a firewall that keeps you from going down that slippery slope.

Andrew Denton: How do you respond to the suggestion that physician-assisted suicide can pressure the vulnerable into believing that they have “a duty to die”?

Daniel Lee: That is an excellent question. That is also a concern that I've had and one reason that I've been watching the Oregon situation very carefully. In the annual report they always include statistics on the reasons the people give for requesting the lethal medication, and I've watched that carefully to see what's at the top of the list. The top three are “losing autonomy”, “less able to engage in activities making life enjoyable” and “loss of dignity”. Those occur time and again, but the one I really watch for is “burden on family, friends and caregivers”, and that's down the list, with 91% of those requesting lethal medication saying losing autonomy is their major reason. If there is seen to be a perceived duty to die, then I would be very concerned about this, but I don't see that happening in Oregon.

Andrew Denton: What can Australians learn from the experience of Death with Dignity laws in Oregon?

Daniel Lee: I think it's important that Australians look at the record as to what has actually happened. The Oregon Public Health Division issues the annual report. It's readily available online. That ought to be distributed in Australia so that people can see the numbers as to what has happened. It would be good for people in Australia to know more about the Oregon law, with the safeguards built into it, and in particular the safeguard of not allowing lethal injection. When you see those features of the law, then it diminishes the fear of what might happen considerably.

Andrew Denton: And to be clear, for the record, you would say that there is no evidence of the slippery slope in Oregon?

Daniel Lee: That's absolutely correct; I see no evidence of that whatsoever.

Andrew Denton: There is one other thing about Oregon's Death with Dignity law that comes as a surprise. Even though everyone using it is, by definition, within six months of dying, more than 30% of those who get the medication choose not to take it. I asked Leigh Dolin why.

Leigh Dolin: What the prescription has done is empowered patients. It has allowed patients at the end of their life to say, "This is not the doctor's decision about what's going to happen here; this is my decision". And this empowerment of the patient, in many cases, in the 30 or 40%, was enough to make them feel OK enough about what was happening to the point where, with appropriate counselling and pain control and palliative care, they didn't really need to take the prescription. They were willing to die a natural death but they were very comforted by knowing that if they wanted to, if they felt that things were becoming intolerable, that prescription was there, and they could do it. So that is what that 30 to 40% is all about.

Andrew Denton: For Eli Stutsman, the success of Oregon's Death with Dignity law is beyond argument.

Eli Stutsman: Twenty years later, this is the policy that works. It's been passed in Washington, it's been passed in Vermont; we now have a law in Oregon that's more than 20 years old with more than 17 years of experience. It's never been more popular. All the arguments that were made against it have never come to bear. To the extent that our opponents have something to say, they have said it, and they have lost it.

Andrew Denton: Eli measures the law's success in the quality of life of those who've used it.

Eli Stutsman: If you are experienced in what happens here in Oregon, you understand that patients don't rush to do this; they make arrangements to do this, and if they need it, they take advantage of their arrangements, and they typically wait and avoid just the very last part, the most difficult part. And they enjoy life as long as they can, and very intentionally so. They surround themselves with their family and they revisit the things they want to revisit. And then when it gets to the point where the last and most difficult part is there, then sometimes they will hasten that. Other times they will not. Other times they will accept that too. But the point is it's their choice.

Brittany Maynard: I plan to be surrounded by my immediate family which is my husband, my mother, my stepfather and my best friend, who's also a physician and probably not much more people, and I will die upstairs in my bedroom, which I share with my husband, with my mother and my husband

by my side and pass peacefully with some music that I like in the background.

Andrew Denton: When Brittany Maynard moved to Oregon in 2014, stricken with aggressive brain cancer, she was given only six months to live.

She used some of that precious time to create videos calling for Oregon's law to be taken up elsewhere.

My goal of course is to influence this policy for positive change, and I would like to see all Americans have access to the same health care rights, but beyond that public policy goal, my aims are simple and really do boil down to my family and friends and making sure they know how important they are to me and how much I love them.

Andrew Denton: So powerful were Brittany's words that opponents scarcely knew how to react. Online, they branded her a coward for choosing to die as she wished. At the HOPE anti-euthanasia conference, they couldn't even bring themselves to mention her name.

Nancy Elliott: Like I said, half of our states have a front this year, and a lot of it has to do with a young woman in the States – I am sure you have heard of her. I am not going to say her name because I'm not giving her a commercial, but she was co-opted by the opposition and they used her suicide to glamorise it...

Andrew Denton: That's Nancy Elliott, spreading the love. For Brittany Maynard, having a choice about how she died also gave her the peace of mind to enjoy her final days.

Brittany Maynard: I hope to enjoy however many days I have left on this beautiful earth and spend as much of it outside as I can surrounded by those that I love. I hope to pass in peace.

Andrew Denton: Brittany Maynard's wish came to pass on November 1 2014. She took the medication in her rented home in Oregon and died peacefully surrounded by close family and friends.

Debbie Ziegler: Good afternoon. I'm Brittany's momma. She called me Momma, so I continue to go by that.

Andrew Denton: After Brittany died, her mother, Debbie Ziegler, carried her message on to the people of California.

Debbie Ziegler: My daughter was visibly relieved when she qualified for the medication. When she had the medication she took great comfort with assurance she was the sole decision-maker about how much pain she was going to endure. Her beautiful face softened. There was a peacefulness in her gaze. Please help me carry out my daughter's legacy. Please help me assure that other terminally ill patients don't have to face what we had to face. This bill will give terminally ill adults in California the option to choose aid in dying, and I thank you with my mother's heart for doing this.

Andrew Denton: In 2015 the Californian legislature voted in favour of a Death with Dignity law modelled on Oregon's.

Governor Jerry Brown, a lifelong Catholic and former Jesuit seminarian, had to decide whether or not to sign it into law.

Brown spent some weeks considering his religion and his conscience. He turned to Brittany Maynard's family and even to South Africa's Archbishop Desmond Tutu. Finally he put his signature to the bill. America's most populous state, with 40 million people, became the fifth in America to allow terminally ill people to legally end their own lives.

Upon signing it into law, Brown said this: "I do not know what I would do if I were dying in prolonged and excruciating pain. I am certain, however, that it would be a comfort to be able to consider the options afforded by this bill". He added: "And I wouldn't deny that right to others".

Debbie Ziegler, YouTube: Very near the end of her life, after some news trucks left I made banana pancakes. And the night that we sat eating banana pancakes and looking out the window and the rain driving against the pane she reached for my hand and she said, "Momma, given the hand of life that we were dealt, this is as good as it gets, Momma". And it was. Thank you very much.

Andrew Denton: The success of Oregon's Death with Dignity law puts into sharp relief two things: the increasingly desperate attempts of opponents to discredit them, and the truth they don't want you to see – that this law works, and exactly as intended.

If you'd like to know more head to the episode page at wheelercentre.com/betteroffdead.

Next episode, having learnt how these laws work overseas, I head home to Australia to see how we compare. In Belgium, The Netherlands, and Oregon I had seen how palliative care and assisted dying go together – the ultimate offer of help for those beyond even the skills of the most dedicated nurses and doctors. Without an assisted dying law to guide or protect them, I wonder how Australian palliative care deals with those same kinds of patients.

[SONG ‘FORTY-EIGHT ANGELS BY PAUL KELLY]

[CLOSING CREDITS]