INSTITUTE OF EUTHANASIA: BETWEEN A PERSON'S RIGHT TO LIFE AND THE RIGHT TO A DIGNIFIED DEATH: PROBLEMS AND CHALLENGES IN THE IMPLEMENTATION OF HUMAN RIGHTS OF CHOICE IN LITHUANIA

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Abstract.
The title of the scientific article is the problem of euthanasia as a possibility for the implementation of natural human rights in Lithuania and foreign countries. The purpose of this paper is to analyze the relationship between the individual's right to life and the prohibition of torture in the implementation of euthanasia as one of the natural human rights in Lithuania and foreign countries. This work has theological and comparative methods. The theological method, which leads to the first part of the work, analyzing international and national legal acts regulating natural human rights. The comparative method compares the legal regulations and social differences between countries that have legalized and those that have not legalized euthanasia. The main conclusion of the article - the legalization of euthanasia is one of the possibilities to implement the prohibition of torture in the context of natural human rights. The practical significance of this scientific article is particularly important for states that have not legalized euthanasia, because the main conclusion of this article is proving the obligation of states to legalize euthanasia in order to provide suitable conditions for the realization of natural human rights. The originality of this scientific article is based on the fact that the compatibility of euthanasia in the context of human rights and freedoms and the equating of the illegalization of euthanasia to torture at the national and international level have not been analyzed in any scientific articles. The value of the article is proven by the fact that the authors used only the latest scientific editions of national and international legal acts and the latest and most comprehensive literature.
Keywords: euthanasia, obligation, human rights, regulations, legal, implementation.

Introduction

Euthanasia is an individual choice to end one's life due to suffering. In most countries, this is equated to murder or suicide, but when evaluating euthanasia in the context of human rights and basic freedoms, it can be said that it is one of the possibilities for the realization of human fundamental rights.

Fundamental rights are individual fundamental possibilities that guarantee and implement human dignity in the areas of social life - the right to life, the right to freedom, the prohibition of torture and other rights and freedoms. These rights are enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter - the Convention), the Universal Declaration of Human Rights (hereinafter - the Declaration) and the Constitution of the Republic of Lithuania (Constitution of the Republic of Lithuania, 2019), but what is the relation of these fundamental human rights and freedoms to the choice to end suffering and die? Convention 2 g. Establishes a person's right to life, and Article 3 of the Convention. prohibits torture. These two articles are next to each other, but when analyzing the importance of Euthanasia in the context of natural human rights and freedoms, they have a common connection. Everyone has the right to live, but suffering from an incurable disease, suffering physical and mental pain, he experiences (feel) agony. The task (objective) of every state is to create such conditions that it will be possible to implement the legal acts of the fundamental rights of each person and to provide the conditions (clause) for that implementation. That is why, when analyzing euthanasia in the context of fundamental human rights and freedoms, it is important to find the right border between the aforementioned articles of the Convention: the right to life and the prohibition of torture (Euthanasia and assisted dying: what is the current position..., 2018; Euthanasia and assisted suicide, 2015).

Human rights are universal subjective rights that owns every person without exception, regardless of the legal system and other local factors, but each state understands and applies them according to its customs and principles (Euthanasia in Lithuania: are we mature for dialogue?, 2021). Euthanasia as an option to end life suffering is legalized in

seven countries of the world: New Zealand, Holland (Pool, 2016), Belgium (Belgian Act on Euthanasia, 2023; Baksheev, A. I., et al, 2018), Colombia, Luxembourg, Western Australia and Canada (tu zemiau rasai, kad dar yra Spain). In Lithuania, euthanasia is currently equated to murder. The recognition of euthanasia in the context of fundamental human rights and its legalization is determined by many factors - religion, customs and the interpretation of these rights in each state according to the formed (developed) public opinion. In Lithuania, human rights are implemented in accordance with the Constitution, Declaration and Convention of the Republic of Lithuania, but why does our state decide for us regarding our dignified death? Why do Lithuanian citizens have to suffer pre-death spiritual and physical agony? Is the only way out of earthly life to choose to end suffering in a state that enforces the ban on torture? These questions will be analyzed in this work, guided by the Constitution, Declaration and Convention of the Republic of Lithuania, looking for the connection between these international and national legal acts and in the context of fundamental human rights and freedoms.

The aim of the paper is to discuss the possibilities of legalizing euthanasia as a fundamental human right in Lithuania.
Tasks:
1. Define the relationship between fundamental human rights and euthanasia.
2. Assess the implementation of fundamental human rights in Lithuania.
3. To compare the legal regulation of Lithuania and foreign countries and the possibilities to legalize euthanasia.
The object of the work is the problem of implementing euthanasia as a fundamental human right.
The subject of the work is the analysis of the importance of legalization of euthanasia.
Methods - analysis of scientific literature, analysis of national legal acts, analysis of international legal acts, philosophical analysis, historical analysis, systematic, logical analysis, comparison, generalization.
Structure of the work - The work consists of an introduction, three chapters, summary and list of references. The first chapter reviews fundamental human rights, the concept of euthanasia and highlights the relationship between fundamental human rights and euthanasia. The second chapter analyzes Lithuanian national legal acts, their compliance with international legal acts and fundamental human rights. The third chapter compares the conditions of euthanasia between Lithuania and foreign states, as entities that are obliged to provide their citizens with suitable conditions for a socially dignified life. The work is concluded with a summary and a list of references.

I. The relationship between fundamental human rights and euthanasia

In the context of current events, it is particularly important for every person to be born with rights and freedoms. Most authors argue that the fundamental rights of the individual exist in democratic states, but analyzing the scientific literature and the doctrine of fundamental law, it can be said that every living or dead individual who comes to this world brings rights and freedoms with him. It is these fundamental rights and freedoms that guarantee an individual's ability to exist in this world and in the spheres of social life (to have active social life). Fundamental rights and freedoms are inseparable from the individual and completely unrelated to the territory, the nation, its legal regulation (Čekanauskaitė, 2019). Creating the conditions for the implementation of these rights is the task of every state, therefore every legal act or its clause, in which positive law contradicts fundamental law, (must be changed according to the position, that the implemented law cannot take away from a person fundamental human right and freedoms) must be changed to such a law that would implement what cannot be taken away from a person.

The development of fundamental and inalienable human rights and freedoms goes back to the ancient East. We can find the beginnings of fundamental law theory in the works of Confucius, a Chinese thinker, educator and one of the most important creators of Confucianism. The concept of legal theory was formulated in ancient times by the Greek philosopher Zeno Kitijietius, the founder of Stoicism. His works has not reached nowadays, there are only fragments, but the concept of the theory of fundamental law is formulated and recognized until now from them, that the ultimate goal of any desire is a virtuous life in accordance with nature and the laws of necessity. Plato, Socrates, Aristotle and other philosophers raised questions about fundamental law theories, in such way agreeing with the already mentioned Confucius and Zeno Kitijieci, therefore, after summarizing the statements, ideas and opinions of all philosophers and thinkers, it can be stated that natural justice and legal justice are different forms of justice, but what is determined by nature cannot be higher than what created by people like us (Downie, et al. 2021).

The thoughts of the world's most famous philosophers and thinkers led to the creation of the first civil codes in Europe - in 1756. Maximilian's Bavarian Civil Code, 1794 Prussian Universal Land Law, 1797 Austrian Civil Code, 1804 The emergence of the French Civil Code. The gradual official consolidation of fundamental rights may have been determined by political relations, but from a philosophical point of view, individuals who create laws and govern states are, first of all, people who want a dignified social life and the conditions provided for it. Possibly for this reason or for others, the modernizing and increasingly popular protection of fundamental human rights was established in one of the most important acts - 1789. The Declaration of Human and Citizen Rights was adopted in France, which led to the adoption or change of constitutional provisions of many states, including Lithuania. After this important step, human rights became even more highlighted and emphasized. That is why, on the 10th of December 1948 in Paris, at the General Assembly of the United Nations, the Universal Declaration of Human Rights was adopted. It became one of the main and encouraging steps for the world, obliging the state to observe fundamental human rights and freedoms - the right to life, liberty, inviolability, civil and political and other fundamental human rights and freedoms. The most important step

towards the obligation of states to ensure dignified social conditions for their citizens took place in 1950, when the European Convention for the Protection of Human Rights and Fundamental Freedoms was prepared and approved by the Council of Europe. This convention enshrined the right of every person to life, the prohibition of torture, cruel, inhuman or degrading treatment and punishment, the prohibition of slavery, forced labor, the right to liberty and security, and other fundamental rights and freedoms. These fundamental human rights and freedoms, enshrined in the convention, obliged the states - participants of the European Convention on Human Rights - to guarantee these rights and freedoms to every person under their jurisdiction. Thus, taking into account the entire development and formation of the doctrine of fundamental law, it can be concluded that fundamental human rights had, have and will have a special significance for the legal system of each state, which is confirmed by the European Convention on Human Rights and Fundamental Freedoms, which has the highest legal authority in Europe, in which fundamental law is established by way of positive law.

In conclusion, it can be said that positive law is not a phenomenon in the modern world. This direction (trend) of legal doctrine has derived from ancient times and investigation was discussed and started to be formed in times when society had no awareness of the types of legal doctrines. The foundation of funamental law, which (that) began to form a long time ago, led to the fact that fundamental human rights were formalized in a way that is more understandable to modern society - in the Universal Declaration of Human Rights, the European Convention on Human Rights and Fundamental Freedoms, and a little later (afterwards), the provisions of these acts were formalized or changed the old norms of state constitutions and precisely because of this, it can be concluded that fundamental law is the foundation of the legal system, while positive law and especially national legal acts are only a way to establish and formalize what fundamental law says.

Euthanasia (Greek euthanasia < eu – good + thanatos – death) – an incurable patient
painless euthanasia by medication or other means to save him from languishing, physical and mental agony. The topic of euthanasia legalization has been discussed for three thousand years, but states and society have not been able to find a common solution on the legalization issue. Just like the development of fundamental law doctrine analyzed before, euthanasia is not only a popular issue of today (issue became popular not only nowadays). In ancient times, this was called "mercy killing" and it had no relation to the concept of euthanasia as it is understood today.

In ancient times, euthanasia was understood as the active death of the patient or the passive death of the patient, in cases of dehydration or starvation. In those days, medical possibilities were limited, so even today, simple diseases became sufferings for us and caused great physical pain, accompanied by spiritual agony, knowing that death was coming. Euthanasia, as a way to make human life easier, was also applied to babies who were born underdeveloped and would not have been able to survive in later life. Based on these facts, it can be concluded that since ancient times, people have considered euthanasia as a fundamenta human right not to suffer, to avoid agony and to die "with dignity".

Analyzing the concept of euthanasia today, we cannot fail to notice the identification of the concepts of euthanasia and murder. Manslaughter is defined as the intentional, unlawful taking life of someone, and it can be considered done by acting - by doing something that causes the person's death or by an omission - when the result of the inaction is the death of another person. Euthanasia is an easy, painless termination of a person's life at his request. Euthanasia is divided into two types - active and passive. These two types are similar to the already mentioned active and inactive type of murder. Active euthanasia is when a person directly performs actions that cause the death of another person, such as administering lethal drugs, while passive euthanasia is when advice is given to help the patient end his or her own life. Basically, killing and euthanasia are different concepts that have a common point of contact. Analyzing the concept of killing more deeply, the types of killing can be divided into three parts: killing out of altruistic reasons (altruistic reasons), killing out of neutral reasons (neutral reasons) and killing out of negative reasons (negative reasons). Relevant to our analyzed topic and the concept of euthanasia is killing of altruistic reasons, which is perceived as mercy killing, for example, killing an incurable patient at his request. Basically, comparing these concepts, we can say that it is similar to euthanasia or even the same. The essential relationship between these concepts is that the action has positive incentives - to reduce the mental and physical pain of the patient. However, euthanasia and killing with altruistic reasons are separated by one fundamental thing - the national legal regulation of states. In some states, euthanasia is not considered as type of murder, actions aimed on helping incurable patients to end life‘s suffering are considered as euthanasia - a legal way to end a person's pain, without seeing the prospects of improving his health care. In other countries, for example, in Lithuania, euthanasia exists only from a theoretical point of view, because from a practical point of view, euthanasia is killing out of altruistic reasond and is considered as a criminal act.

Pursuant to Article 2, Part 6 of the Law on Registration of Human Death and Critical Conditions of the Republic of Lithuania, human death is the irreversible death of an organism. Paragraph 4 of the same article establishes that the fact of death is treated when a person's blood circulation and breathing are irreversibly interrupted or brain death occurs. It is important to emphasize that Article 11 of the same law provides for the circumstances in which resuscitation of a person can be terminated, for example, point 3 of the mentioned article states that resuscitation of a person can be terminated when the person has expressed disagreement about his resuscitation. In the case of euthanasia, death is determined when biological death occurs - the irreversible process of decay of the human brain cells, regardless of the fact that other functions of the body are working or can work. So, this means that a person is considered alive until biological death occurs, and any actions aimed at taking life are considered as murder.

Thus, summarizing and juxtaposing euthanasia and killing out of altruistic reasons, it can be said that both actions coincide in terms of time - death is determined after the cessation of blood flow, breathing or brain death. After evaluating the principle of operation of euthanasia and killing out of altruistic reasons, it is very important to emphasize the motive

and purpose of these actions - actions that are considered euthanasia or killing out of altruistic reasons are performed when the patient is in a desperate situation, suffering physical and spiritual agony, and there is none drugs and medical methods for him to help. Further analyzing the topic of legalization of euthanasia, it is also important that such actions are considered euthanasia in countries where it is legal, and killing out of altruistic reasons in countries where it is prohibited. So, the authors of this article raise the question - are the actions that cause a painless and dignified death, which are performed with the consent of the patient and in a desperate situation, when the person is suffering from physical and spiritual pain, suffering and having no opportunities to improve the situation, considered murder or the implementation of fundamental human rights? After defining the concept of fundamental human rights, its development and importance for society and states, and after analyzing the concept of euthanasia and the principle of operation, we can say that every person has the right to act of his own free will. In Lithuania, euthanasia exists only in a theoretical aspect, because its practical performance would be qualified as killing out of altruistic reasons. However, Article 18 of the Constitution of the Republic of Lithuania establishes that human rights and freedoms are fundamental, and from this follows the right of a person to be guided by free self-determination. Article 19 of the Constitution of the Republic of Lithuania enshrines the human right to life. However, it is important to emphasize that the law protects not life itself, but only the right to life, as the most important fundamental human right. These two articles of the aforementioned law, which has the highest legal authority in Lithuania, raise even more questions: does the state have the constitutional power to force a person to be treated against his will, even if there are no chances of recovery? Which of the two articles of the aforementioned law should we follow: the one that gives us the right to life, or the one that allows us to exercise our free will without harming other persons?

II. Lithuania and the implementation of human fundamental rights: the right to a dignified death

Euthanasia does not exist in Lithuania. Guided by the concept of euthanasia and analyzing the national legal acts of the Republic of Lithuania, it can be concluded that in Lithuania euthanasia as permitted or a criminal act in general does not exist, because the application and purpose of euthanasia is considered one of the forms of murder. However, is Lithuania and national legislation - do not contradict themselves on the issue of euthanasia? Does considering euthanasia as one of the forms of murder and banning this act implement the fundamenta prohibition of torture?

Article 18 of the Constitution of the Republic of Lithuania states that the rights of every person are fundamental. From this statement it is following that every person has the right to make a free decision, if that decision does not harm others. Taking into account the fact that Lithuania is a European country and taking into account the hierarchy of legal acts, the Constitution of the Republic of Lithuania is the document with the highest legal authority, but the norms contained in it must comply with international legal acts regulating the most important areas - the Convention and the Declaration.

Article 18 of the Constitution of the Republic of Lithuania, Article 3 of the Convention, Article 5 of the Declaration - all different legal acts, but stating the same thing: no one shall be tortured or subjected to cruel, inhuman or degrading treatment or punishment. This means that from a theoretical point of view, Lithuania, as a state, in its law with the highest legal authority, implements fundamental human rights, in this case, the prohibition of torture. But how is it in practice? From a practical point of view, euthanasia in Lithuania is equated to murder. This means that a citizen of Lithuania, suffering from an incurable disease, suffering from great physical pain, and knowing about the impending death, experiencing spiritual agony as well, cannot voluntarily end the suffering of life. in the journal of Vilnius University, 2021 the publication stated that only 3 out of 10 incurable patients receive the necessary help in Lithuania. When we talk about help, we mean psychological help, which in Lithuania is provided by palliative care, an interdisciplinary team - doctor, psychologist, nurse, social worker and clergy. In Lithuania, palliative care is regulated by the order of the Minister of Health, therefore it falls within the scope of legal regulation and only persons suffering from an incurable disease, which is included in the international list of incurable diseases, receive this help. Whether this palliative care is effective, we cannot provide an unequivocal answer, but whether the people who receive it feel physical and spiritual pain, it can be concluded that it is. Thus, Lithuanian national legal acts theoretically implement the European requirement that positive law does not conflict with fundamental law. The Constitution of the Republic of Lithuania, the Convention and the Declaration - equally state that a person cannot be tortured in any way. However, the actions of the Lithuanian state show something else. From a practical point of view, the non-legalization of euthanasia in Lithuania means suffering in the physical and spiritual sense for many people, so it can be said that seriously ill patients are tortured in Lithuania. Considering the fact that palliative care is provided in Lithuania, it can be concluded that Lithuania, as a state, not only tortures its seriously ill residents, but also violates their right to freedom of choice and a dignified death.

Taking into account that euthanasia is a particularly most debatable topic, in 2012 May 7th- 14th, the research company "Rait" conducted a representative survey of Lithuanian residents on the legalization of euthanasia, assessing the opinion of Lithuanians as people and citizens on this issue. 47% of Lithuanian residents indicated that they would agree and support the legalization of euthanasia in Lithuania. The results of this survey reflect a clear position of society regarding the need to change the legal regulation in Lithuania and to fill its deficiency in the issue of euthanasia. This means that society wants its fundamental rights, wants death to be dignified, but why Lithuania is not listening? According to the authors of the article, legalizing euthanasia in Lithuania should change the Civil Code of the Republic of Lithuania, the Criminal Code of the Republic of Lithuania (Criminal Code of the Republic of Lithuania, 2021), the Law on Determination of Human Death and Critical Conditions, the Law on Human Tissues, Cells, Organs, Donation and Transplantation and The Law of Patients' Rights and Compensation for Health Damage. This would be quite challenging

for the legislator of the Republic of Lithuania, and it can also be said that the legalization of euthanasia would mean that medicine is not innovative enough to solve all emerging health problems. But then the question should be answered: what is more important, revealing the truth that we are not yet that progressive and allowing a person to choose to suffer pain or not, or hiding from the public that medicine is not that innovative enough yet?

So, to sum up, euthanasia in Lithuania is only a theoretical concept whose application in practice is called murder. The Constitution of the Republic of Lithuania fulfills the obligation of states to establish fundamental law through positive law, but when it comes to euthanasia, Lithuania, as a state, by not legalizing euthanasia, violates the Convention and the Declaration's prohibition of torturing people in a practical aspect. Also, it is important to emphasize that the non-legalization of euthanasia violates the Constitution of the Republic of Lithuania itself, which states that we all have the right to freedom of choice, but seriously ill patients, suffering from incurable diseases, suffering spiritual and physical agony, in Lithuania do not have the right to end their suffering and choose the way they want to die.

III. Euthanasia in foreign countries

Fundamental human rights exist for everyone, regardless of the states national system. Euthanasia as a way to end life suffering is legalized in New Zealand, Holland, Belgium (Criminal code of Holland, 2023), Colombia, Luxembourg, Western Australia, Canada and Spain. The choice of these states to legalize euthanasia was widely discussed by the public, media, and especially Church, which spoke out against euthanasia, which had implications for the choice of some states not to legalize euthanasia (Frei, 2021).

Euthanasia is illegal in Italy, but legalization is on the way. Italians strive implementation of fundamental rights, therefore organized a national referendum on the legalization of euthanasia. If Italy implements the idea of legalizing euthanasia, it would become the ninth country in the world to grant the right to its citizens to die with dignity. Of course, in Italy, like in other countries, legalized euthanasia is prevented by Church. The Pope and Church instruct states to follow the "proportionate treatment criterion", which means that death is inevitable, so there is no need to use excessive and ineffective drugs and preparations, they do not support the idea of euthanasia and call it a crime against God. This interpretation of the Church is followed by a number of countries, so the legalization of euthanasia becomes an even bigger problem and fundamental human rights are forgotten. In Lithuania, the problem of legalizing euthanasia is also related to the Church and faith (Bovero, et al., 2020). Lithuanians have a saying "sudden death is a gift from God", so it is clear from this saying that Lithuanians do not want to suffer, do not want to suffer physical and spiritual pain, and consider sudden death as a gift from God. Analyzing all the actions of Lithuania and other foreign countries in general, we can say that many things are prohibited: it is forbidden to kill, steal, rape and many other things that harm the person and the public interest, but it is still done, but it is punished One example where euthanasia is illegal, but that illegalization is disproportionate and irrational and a person is forced to break the law, came in 1998 when Romano Sampedro died. The man became paralyzed after a neck injury, fought in the courts for 30 years for the opportunity to get out of life's suffering, but was unsuccessful and did it anyway, albeit in an illegal way. This situation, which was echoed loudly in the media, proves that the states, by not providing the conditions for the realization of fundamental human rights, the right to free human self-determination, and by not implementing the ban on torture, have not abolished euthanasia, as the fundamental right of people to die with dignity, but make it an uncontrollable, illegal act, for which they punish those, who fulfilled the last wish of the deceased. When the market for any services and goods is illegal, it does not mean that it does not exist, it means that it happens in a shadowy way. In this case, when euthanasia is illegal in Lithuania and other countries, we cannot control the legal basis that would regulate the operation of euthanasia, nor can we control the doctors, relatives or other persons whom the patient asks to perform euthanasia for him. Thus, the legalization of euthanasia, the possibility and the right to choose a dignified death is a problem of Lithuania and other foreign countries, which arises due to the statements of the Church on this topic and the insufficient effort of the states to provide their people with suitable conditions for these rights to be realized. The legalization of euthanasia means that this service falls within the scope of legal regulation, it is supervised by specialists, researches and conclusions are carried out that show whether a person really cannot recover and then a person has the right to choose: to live or die a dignified death.

Summary

Summarizing the legal institution of euthanasia in the context of fundamental human rights, it can be stated that the non-legalization of the institution of euthanasia in the national law of Lithuania can be equated to causing pain and suffering to a person and restricting the right to make decisions of one's own free will. The obligation of the states enshrined in the Constitution of the Republic of Lithuania formalizes the fundamental human right in the theoretical aspect and in the ways of positive law, but in the practical aspect, with other national legal acts, it eliminates the human ability to make choices and die with dignity. The doctrine of fundamental law and the human rights enshrined in it have been considered supreme and inalienable since ancient times, and the doctrine of fundamental law itself is considered higher than positive law. So why does the Constitution of the Republic of Lithuania, which has the highest legal authority in Lithuania, tell us that we have the right to choose, forbids torturing us, but punishes us for it with other legal acts, such as the Criminal Code of the Republic of Lithuania? The answer lies in the lack of official definition of the concept of euthanasia. At the moment, euthanasia as a concept is not officially defined in Lithuania, it is equated with murder, which is why it is a violation of fundamental human rights. Taking into account the survey mentioned in this paper, it is obvious that the people of Lithuania are ready to have a choice that would be decisive in the matter of their dignified death. Thus, Lithuania

and other states that strive for a dignified social life of their peoples must legalize euthanasia and stop torturing patients who have no chance of recovery, suffering spiritual and physical agony and give them the opportunity to leave this world with dignity.

Conclutions

1. Natural human rights and euthanasia have a very close relationship. Since ancient times, people have considered euthanasia as a mandatory method to alleviate the suffering of a dying person. Currently in the world, the concept of euthanasia is equated with murder and this leads to misunderstandings. The authors of the article would recommend the states to define the purposeful and correct concept of euthanasia officially.
2. Lithuania does not implement natural human rights properly. In Lithuania, euthanasia is illegal, officially there is no possibility for a person to choose a dignified death. It is because of this that people in Lithuania suffer agony before death and do not have the opportunity to end it. The authors of the article would recommend first to define the concept of euthanasia and then to change the legal regulation of Lithuania, separating murder from euthanasia.
3. Comparing Lithuania and foreign countries regarding the legalization of euthanasia, it can be concluded that the number of countries that choose to implement natural human rights is already increasing. Lithuania lags behind in this matter and adheres to old and unfounded reasoning that has no real basis. The authors of the article would recommend following the example of countries that have achieved a lot and legalize euthanasia in Lithuania, as it has chosen the option for seriously ill people.

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