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I. INTRODUCTION

I am an attorney in Washington State where assisted suicide is legal. Our law is based on a similar law in Oregon. Both laws are similar to A2270, which is titled “Aid in Dying for the Terminally Ill Act.”

“Aid in Dying” is a euphemism for assisted suicide and euthanasia. The term is also deceptive because it implies that A2270 is limited to people who are dying, which is untrue. A2270 applies to people who may have years, even decades, to live.

A2270 is, regardless, a recipe for elder abuse. Key provisions include that a patient’s heir, who will benefit from his death, is allowed to help him sign up for the lethal dose. I urge you to reject this measure.

II. FACTUAL AND LEGAL BACKGROUND

A. Compassion & Choices is a Successor Organization to the Hemlock Society

Passage of A2270 is being spearheaded by the suicide

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1 I am an elder law attorney who has been licensed to practice law since 1986. I am a former Law Clerk to the Washington State Supreme Court and the Washington State Court of Appeals. I also worked for a year with the United States Department of Justice. I am a former Chair of the Elder Law Committee of the American Bar Association Family Law Section. I am President of Choice is an Illusion, a human rights organization opposed to assisted suicide and euthanasia. For more information, please see www.margaretdore.com and www.choiceillusion.org

2 A copy of A2270 is attached hereto at A-1 through A-15.

3 The term, “aid in dying” means euthanasia. See, for example, the 1989 Model Aid-in-Dying Act at this link using the letters “euthan” (for euthanasia) at http://www.uiowa.edu/~sfklaw/euthan.html
advocacy group, Compassion & Choices.

Compassion & Choices was formed in 2004 as the result of a merger/takeover of two other organizations. One of these organizations was the former Hemlock Society, originally formed by Derek Humphry.5

In 2011, Humphry was the keynote speaker at Compassion & Choices' annual meeting here in Washington State.6 In 2011, he was also in the news as a promoter of mail-order suicide kits.7 This was after a depressed 29 year old man used one of the kits to kill himself.8

B. Physician-Assisted Suicide, Assisted Suicide and Euthanasia

The American Medical Association defines “physician-assisted suicide” as occurring when “a physician facilitates a patient’s death by providing the necessary means and/or information to enable the patient to perform the life-ending act (e.g. the physician provides sleeping pills and information about the

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5 Id. See also Compassion & Choices Newsletter excerpt, attached at A-20.
6 Compassion & Choices newsletter at A-20.
8 Id., at A-23 (“For $60, they blew his life apart”).

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lethal dose, while aware that the patient may commit suicide).”

"Assisted suicide" is a general term in which the aiding person
is not necessarily a physician. "Euthanasia," by contrast, is
the direct administration of a lethal agent with the intent to
cause another person's death.10 "Euthanasia" is also known as
"mercy killing"11

The American Medical Association rejects assisted suicide
and euthanasia, stating they are:

fundamentally incompatible with the
physician's role as healer, would be
difficult or impossible to control, and would
pose serious societal risks.12

C. Most States Have Rejected Assisted Suicide and Euthanasia

There have been more than 100 attempts to legalize assisted
suicide and/or euthanasia in the United States.13 The
overwhelming majority of these attempts have failed. Indeed,

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9 The AMA Code of Medical Ethics, Opinion 2.211 - Physician-Assisted
Suicide. Available at

10 Compare, AMA Code of Ethics, Opinion 2.21 - Euthanasia. Available at
l-ethics/opinion221.page# (Attached at A-65).


12 AMA Code of Ethics, Opinions 2.211 and 2.21, supra at footnotes 9 & 10.

13 See tabulation at
http://epcdocuments.files.wordpress.com/2011/10/attempts_to_legalize_001.pdf
the New Hampshire House of Representatives recently defeated a bill similar to A2270. The vote was 219 to 66. In New Hampshire, the House of Representatives is controlled by the Democratic Party.

There are four states where assisted suicide is legal: Oregon, Washington, Vermont and New Mexico (in one county). Oregon’s law was enacted by a ballot initiative in 1997. Washington’s law was enacted via another initiative in 2008 and went into effect in 2009. Vermont’s law was passed by its legislature in 2013. No one, however, has died under that law and opponents are calling for a repeal. In New Mexico, there is a district court opinion, which legalized assisted suicide in one county. That case is on appeal. Moreover and contrary to

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14 See “Live Free or Die. New Hampshire Obliterates Oregon-style Death with Dignity Act!,” Choice is an Illusion, March 6, 2014, http://www.choiceillusion.org/2014/03/live-free-or-die-new-hampshire.html. See also HB 1325 Roll Call, voting 219 to 66 “yea” to defeat the bill as “ITL” (inexpedient to legislate). (Attached at A-25)

15 Id.

16 See New Hampshire House Leadership page listing Democrats as Speaker of the House (Rep Morelli) and Majority Leader (Rep Shurtleff). (Attached A-26). See also Shurtleff’s bio page at A-27 (showing his membership in the Democratic party).

17 Oregon’s physician-assisted suicide law was passed as Ballot Measure 16 in 1994 and went into effect after a referendum in 1997.

18 Washington’s law was passed as Initiative 1000 on November 4, 2008 and went into effect on March 5, 2009. See http://www.doh.wa.gov/dwda/default.htm


claims made by suicide proponents, assisted suicide is not legal in Montana.\footnote{21} In the last three years, four states have strengthened their laws against assisted suicide.\footnote{22} These states are: Arizona, Idaho, Georgia and Louisiana.\footnote{23}

III. THE BILL

A. "Eligible" Patients May Have Years, Even Decades, to Live.

A2270 applies to "terminal" patients, meaning those predicted to have less than six months to live.\footnote{24} Such persons may, in fact, have years or decades to live. This is due to at least three reasons:

1. \textbf{If New Jersey follows Oregon's interpretation of "terminal disease," assisted suicide will be legalized for persons with chronic conditions such as diabetes.}\footnote{21}

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\footnote{21} I am counsel of record for Montanans Against Assisted Suicide (MAAS), which is currently in litigation against the Montana Medical Examiners Board (Board) over the status of assisted suicide in Montana. As part of that lawsuit, we succeeded in getting the Board to remove a position paper implying that assisted suicide is legal in Montana. We are also seeking to overturn a case called Baxter, which gives doctors who assist a suicide potential defenses to a homicide charge. For more information, See: Sanjay Talwani, MTV News, "Montana Judge hears assisted suicide arguments," December 13, 2013 (attached hereto at A-30 & A-31); my client's press release (attached at A-32 to A-33); and "SB 220 Defeated." (Attached at A-34).


\footnote{23} Id.

\footnote{24} A2270, § 3. (Attached at A-4, lines 1-3).
Under A2270, assisted suicide is available for persons with a "terminal disease," which is defined as follows:

"Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, result in a patient’s death within six months.25

In Oregon, a nearly identical definition of "terminal disease," has been interpreted to include chronic conditions such as insulin dependent diabetes.26 Oregon doctor, William Toffler, explains:

Our [assisted suicide] law applies to "terminal" patients who are predicted to have less than six months to live. In practice, this idea of terminal has recently become stretched to include people with chronic conditions . . . . Persons with these conditions are considered terminal if they are dependent on their medications, such as insulin, to live.27

If New Jersey enacts A2270 and follows Oregon’s

25 Id.

26 The Oregon definition states:

"Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six months.

Or. Rev. Stat. 127.800 s.1.01(12), attached hereto at A-16.

27 Letter to the Editor, from William Toffler MD to the New Haven Register, February 24, 2014, ¶2. (Attached at A-61). For further information, see Oregon’s annual assisted suicide report for 2013, which lists "chronic lower respiratory disease" and "diabetes" as underlying illnesses for the purpose of assisted suicide. The report is attached hereto at A-54 to A-60. "Chronic lower respiratory disease" and "diabetes" are listed at A-59 & A-60, respectively.
interpretation of "terminal disease," assisted suicide will be legalized for people in New Jersey with chronic conditions such as diabetes. Dr. Toffler states:

   Such persons, with treatment, could otherwise have years or even decades to live."28

2. Treatment can lead to recovery.

Patients may also have years to live because treatment can lead to recovery. Consider Oregon resident, Jeanette Hall, who was diagnosed with cancer in 2000 and wanted to "do" Oregon's assisted suicide law.29 Her doctor, who did not believe in assisted suicide, convinced her to be treated instead.30 In a 2012 affidavit, she states:

   This July, it was 12 years since my diagnosis. If [my doctor] had believed in assisted suicide, I would be dead.31

3. Predictions can be wrong.

Finally, patients may have years to live because predicting life expectancy is not an exact science.32 Consider John Norton

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30 Id.

31 Affidavit of Jeanette Hall, ¶ 4. (Attached at A-46).

32 See e.g., Shapiro, Nina, Terminal Uncertainty—Washington's new 'Death with Dignity' law allows doctors to help people commit suicide — once they've determined that the patient has only six months to live. But what if they're wrong?, Seattle Weekly, January 14, 2009. (Attached hereto at A-36 to A-41). See also Affidavit of Kenneth Stevens, MD, filed by the Canadian government in...
who was diagnosed with ALS. He was told that he would get progressively worse (be paralyzed) and die in three to five years. Instead, the disease progression stopped on its own. In a 2012 affidavit, at age 74, he states:

If assisted suicide or euthanasia had been available to me in the 1950's, I would have missed the bulk of my life and my life yet to come.  

B. How the Bill Works

A2270 has an application process to obtain the lethal dose, which includes a written lethal dose request form. Once the lethal dose is issued by the pharmacy, there is no oversight. The death is not required to be witnessed by disinterested persons. Indeed, no one is required to be present.

After the death occurs, the death certificate is required to be falsified. There is otherwise a lack of transparency and accountability.

C. Specific Problems with the Bill

Leblanc v. Canada, dated 9/18/12, ¶ 11 (“There are always some people who beat the odds”). (Attached hereto at A-49).

33 Affidavit of John Norton, Attached at A-43.

34 The lethal dose request form can be viewed at A2270, § 20. (Attached at A-10 & A-11)


36 Id.

37 Id.
A2270 implies that its provisions are “entirely voluntary.”

For example, § 2.b. states:

The public welfare requires that such a process be entirely voluntary on the part of all participants, including the patient ...\textsuperscript{39}

This comforting thought, however, is an illusion and propaganda when compared to what A2270 actually says and does. Please consider some of the bill’s specific problems discussed below.

1. No witnesses at the death

A2270 does not require witnesses at the death.\textsuperscript{39} Without disinterested witnesses, the opportunity is created for someone else to administer the lethal dose to the patient without his consent.\textsuperscript{40} Even if he struggled, who would know? This situation is especially significant for people with money. A California case, People v. Stuart, 67 Cal.Rptr.3d 129, 143 (2007), states:

[F]inancial considerations [are] an all too common motivation for killing someone.\textsuperscript{41}

Without disinterested witnesses, the patient’s voluntary
action is not guaranteed.

2. Adding witnesses will not fix the problem

Requiring disinterested witnesses at the death would protect against overt murder. Generally, however, witnesses are not much of a safeguard. Many wills are properly witnessed and nonetheless set aside for undue influence, fraud, etc.

3. Witnesses can be coercive

Witnesses can also be coercive. Consider Oregon resident Lovelle Svart, who threw herself an “exit party,” during which she danced the polka with George Eighmey of Compassion & Choices. The party was reported in the newspaper, which wrote an article implying that she was in control.\(^{42}\) At the end of the party, however, when it was time for her to die, the paper also reported this exchange between her and Eighmey, which took place in front of ten people:

"Is this what you want?"

"Actually, I’d like to go on partying," Lovelle replied, laughing before turning serious. "But, yes."

"If you do take it, you will die."

"Yes."\(^{43}\)


\(^{43}\) Id.
The situation is similar to a wedding when it’s time to take your vows. Everyone’s watching and it’s the thing to do. So even if you are having second thoughts or would rather “go on partying,” you go forward to take the lethal dose. If Eighmey had actually wanted to give her an out, he could have said:

“You are having so much fun, you don’t have to do this today or even next week.”

Instead, he proceeded according to the script that she would die at the end of the party. His role was to preside over her death. Her role was to comply. Once she was in this role, she no longer had control. The situation was inherently coercive.

4. The patient’s heir is allowed to be a witness on the lethal dose request form

A2270 allows one of two witnesses on the lethal dose request form to be the patient’s heir who will financially benefit from the patient’s death. In the context of making a will, such active participation by an heir is a marker of undue influence. Consider, for example, Washington’s probate statute. It states that when one of two witnesses receives a gift under a will, there is a rebuttable presumption that the receiver/witness:

procured the gift by duress, menace, fraud, or undue influence.

44 A2270 requires two witnesses on the lethal dose request form. See: § 5, lines 15-25 and § 20. (Attached at A-4 & A-11). At least one of these witnesses shall be a person who is not an heir, i.e., “entitled to any portion of the estate of the patient upon the patient’s death under any will or by operation of law.” (Id.) The other witness is allowed to be an heir. (Id.)
5. **Someone else, even a stranger, is allowed to speak for the patient during the lethal dose request process.**

Under A2270, a patient requesting a lethal dose is required to be "capable." This is, however, a relaxed standard in which someone else is allowed to speak for the patient. Moreover, the speaking person does not have to be the patient's designated agent such as an attorney-in-fact under a power of attorney. The only requirement is that the speaking person be "familiar with the patient's manner of communicating." A2270 states:

> "Capable" means having the capacity to make health care decisions and to communicate them to a health care professional, including communication through persons familiar with the patient's manner of communicating . . . (Emphasis added).

Being "familiar with the patient's manner of communicating" is a very minimal standard. Consider, for example, a doctor's assistant who is familiar with a patient's "manner of communicating" in Spanish, but does not herself understand Spanish. That would be enough to meet the test for "capable" under A2270. Indeed, the doctor's janitor could speak for the patient as long as he was "familiar with the patient's manner of communicating."
communicating."

With someone else allowed to speak for the patient, including a stranger who is merely "familiar" with the patient's manner of communicating, patient voluntariness is not assured.

6. The term, "self-administer," allows someone else to administer the lethal dose to the patient.

Proponents may claim that patients under A2270 are, nonetheless, in control due to a requirement of "self-administration." A2270, however, only says that a patient "may" self-administer a lethal dose.

There is no provision that administration of the lethal dose "must" be by self-administration. A2270 also defines "self-administer" as the patient's "act of ingesting." § 3 says:

"Self-administer" means a qualified patient's act of ingesting medication to end that individual's life . . . . (Emphasis added).

A2270 does not define "ingesting." Dictionary definitions include:

[T]o take (food, drugs, etc.) into the body, as by swallowing, inhaling, or absorbing."

With these definitions, someone else putting the lethal dose

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47 See, e.g., A2270, § 2.a. (Attached hereto at A-2).

48 See Bill A2270 in its entirety, attached hereto at A-1 to A-15.

49 Attached at A-3, lines 44-46.

50 Webster's New World College Dictionary, ingest. (Attached at A-64).
in the patient’s mouth qualifies as self-administration because the patient will thereby be “swallowing” the lethal dose, i.e., “ingesting” it. Someone else placing a medication patch on the patient’s arm will also qualify because the patient will thereby be “absorbing” the lethal dose, i.e., “ingesting” it. Someone else turning on lethal gas will qualify because the patient will thereby be “inhaling” the lethal dose, i.e., “ingesting” it.

With self-administer defined as mere ingestion, someone else is allowed to administer the lethal dose to the patient.

7. **A2270 legalizes euthanasia, physician-assisted suicide and assisted suicide generally.**

With someone else allowed to administer the lethal dose to the patient, A2270 legalizes “euthanasia” under generally accepted medical terminology. The AMA Code of Medical Ethics, Opinion 2.21, states:

> Euthanasia is the administration of a lethal agent by another person to a patient . . . 51

If instead, the patient administers the lethal dose to himself, this is “physician-assisted suicide,” under generally accepted medical terminology. The AMA Code of Medical Ethics, Opinion 2.211 states:

> Physician-assisted suicide occurs when a physician facilitates a patient’s death by providing the necessary means and/or

51 Attached hereto at A-65.
information to enable the patient to perform the life-ending act (e.g., the physician provides sleeping pills and information about the lethal dose, while aware that the patient may commit suicide).


A2270 also allows the active participation of non-physicians such as the patient's heirs. For this reason, the general term, "assisted suicide," is also appropriate.

In summary, A2270 legalizes euthanasia and physician-assisted suicide, i.e., under generally accepted medical terminology. The term, "assisted suicide" is also appropriate.

8. A2270 does not prohibit involuntary administration of the lethal dose.

A2270 does not require that the patient be capable or even aware when the lethal dose is administered. \(^{52}\) There is also no language requiring the patient's consent at the time of administration. \(^{53}\) Without these requirements when the lethal dose is administered, A2270 does not prohibit non-consensual and/or involuntary administration of the lethal dose.

Similarly, there is no criminal penalty for administering a

\(^{52}\) A2270 addresses whether the patient is "capable" in conjunction with the lethal dose request, not later at the time of administration. See: §§ 2.a., 3., 4.b., 5.a., 6.a.(1), 6.a.(4), 7.c., 11.c.(2) & (3), and 20 (regarding "sound mind").

\(^{53}\) A2270 requires that a determination of whether a patient is acting "voluntarily" be made in conjunction with the lethal dose request, not later. See: §§ 4.c., 5.a., 6.a.(1), 6.a.(4), 7.c., 11.c.(2) & (3), and 20 (regarding making the request "voluntarily").
lethal dose a patient without his or her consent. See, for example, §18, which provides criminal penalties for failing to comply with the act.\textsuperscript{54} None of these penalties apply to a person who has administered a lethal dose to a patient without his or her consent.\textsuperscript{55}

9. **A patient may not have the ability to rescind.**

Proponents may argue that patient consent is, nonetheless, required at the time of administration because a patient may rescind the request for the lethal dose "at any time."\textsuperscript{56} A provision that a patient "may" rescind is not, however, the same thing as a right to give consent when the lethal dose is administered. Consider, for example, a patient who obtained the dose on a "just-in-case" basis, i.e. without consenting to taking

\textsuperscript{54} A2270, §18 states:

a. A person who, without authorization of the patient, willfully alters or forges a request for medication pursuant to this act, or conceals or destroys a rescission of that request with the intent or effect of causing the patient's death, is guilty of a crime of the second degree.

b. A person who coerces or exerts undue influence on a patient to request medication to end the patient's life, or to destroy a rescission of a request, is guilty of a crime of the third degree.

c. Nothing in this act shall limit liability for civil damages resulting from the negligence or intentional misconduct of any person.

d. The penalties set forth in this section shall not preclude the imposition of any other criminal penalty applicable under law for conduct that is inconsistent with the provisions of this act.

\textsuperscript{55} Id.

\textsuperscript{56} A2270, § 11.b., attached hereto at A-6.
it. If such patient would later become incompetent, be sedated, or simply be sleeping, she would not have the ability to rescind. Without the right to consent, someone else could, nonetheless, administer the lethal dose to her. Without the right to consent, the patient’s promised control over the time, place and manner of her death is an illusion.

10. **A2270 lacks transparency and accountability.**

   a. **Record keeping is private.**

   A2270 provides that a doctor’s compliance with its provisions be tracked in the patient’s medical record, which is a private document protected by HIPPA.\(^{57}\)

   b. **The cause of death is falsified.**

   A2270, § 6.c., states that the death certificate, which is the official record of a person’s death, “shall list the underlying terminal illness as the cause of death.”\(^{58}\) This is as opposed to the true cause of death, which is a lethal dose of medication. The official cause of death is thus falsified, which creates a lack of transparency regarding specific deaths and also a lack of transparency for the purpose of later review should anyone want to know how the law is working in practice.

   A smaller point, vital statistics regarding disease survival

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\(^{57}\) See Bill A2270, § 11.c., attached at A-7.

\(^{58}\) Attached at A-5, lines 38-9.
rates will also be distorted (and artificially pushed downward).

c. The Division of Consumer Affairs is without power to investigate other than to "request" a report; No disclosure of identifying information is permitted.

A2270 provides for reporting by prescribing health care professionals to the Division of Consumer Affairs.59 This is for the purpose of an annual statistical report to the public.60 The Division is given no powers of investigation or enforcement, i.e., other than to "request" a report.61 Moreover, any information collected "that contains material or data that could be used to identify an individual patient or health care professional shall not be included under materials available to public inspection."62

d. If New Jersey follows Washington State's interpretation of language similar to A2270, death investigations by the medical examiner will be eliminated other than to certify the deaths as "Natural."

As noted above, A2270 states that the patient's death

59 A2270, § 14, at A.7 & A.8.
60 Id.
61 Id.
62 Id.
certificate "shall list the underlying terminal illness as the cause of death." A2270 also states:

Any action taken in accordance with the provisions of this act shall not constitute suicide, assisted suicide, mercy killing, or homicide under any criminal law of this State.

In Washington State, similar language has been interpreted to require the Medical Examiner to certify the manner of death as "Natural" as long as Washington’s death with dignity act was used, i.e., regardless of the specific facts of the case. In addition, the death certificate is not to contain any language indicating that Washington’s act was used. Prohibited words include "assisted suicide", "mercy killing" and "euthanasia.

If New Jersey enacts A2270 and follows Washington’s lead, there will be a similar result in which death investigations are effectively eliminated and there is a near complete lack of transparency and accountability regarding deaths under the New Jersey act.

64 §17.a.(2), at A-9.
66 Id.
67 Id.
IV. THE OREGON AND WASHINGTON EXPERIENCE

A. Any Study Claiming that Oregon’s Law is Safe, is Invalid.

During Montana’s 2011 legislative session, the lack of oversight in Oregon’s law prompted Senator Jeff Essmann to make this observation: the Oregon studies are invalid. He stated:

[All] the protections end after the prescription is written. [The proponents] admitted that the provisions in the Oregon law would permit one person to be alone in that room with the patient. And in that situation, there is no guarantee that that medication is self administered.

So frankly, any of the studies that come out of the state of Oregon’s experience are invalid because no one who administers that drug . . . to that patient is going to be turning themselves in for the commission of a homicide.66

B. Legal Assisted Suicide Allows Health Care Providers and Insurers to Steer Patients to Suicide.

If A2270 is passed, health care providers and insurers in New Jersey will be able to steer patients to suicide.

Consider the case of Oregon resident, Barbara Wagner. In 2008, the Oregon Health Plan refused to cover a drug to possibly cure her cancer and offered to cover her assisted suicide instead.

"It was horrible," Wagner told ABCNews.com. "I got a letter in the mail that basically said if you want to take the pills, we will help you get that from the doctor and we will

stand there and watch you die. But we won't give you the medication to live." 69

Wagner, who was unable to afford the drug, was steered to suicide. The drug's manufacturer then agreed to provide it for free. 70 She nonetheless died a short time later.

To learn more about steerable to suicide, see the affidavit of Kenneth Stevens, MD, attached hereto at A-47 to A-53.

C. Compassion & Choices' True Agenda is the Promotion of Managed Care with Less Choice for Individual Patients.

On November 29, 2008, Compassion & Choices President, Barbara Coombs Lee, published an op-ed in The Oregonian, which is Oregon's largest paper. 71 Therein, she took issue with Wagner's choice to live. 72 Coombs Lee argued that Wagner should have instead given up hope and accepted her pending death. But, this was not Wagner's choice. In a KATU TV interview, Wagner said:

I'm not ready, I'm not ready to die. . . . I've got things I'd still like to do. 73

Coombs Lee also defended the Oregon Health Plan and argued for a public policy change to discourage patients from seeking

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69 Susan Donaldson James, "Death Drugs Cause Uproar in Oregon," ABC News, August 6, 2008 (Excerpt attached at A-67)

70 "Letter noting assisted suicide raises questions," KATU TV, July 30, 2008. (Attached at A-68 & 69)

71 Barbara Coombs Lee, "Sensationalizing a sad case cheats the public of sound debate, The Oregonian, November 29, 2008 (Attached hereto at A-70)

72 Id.

73 KATU story, supra. (Attached at A-68).
cures. She thus showed her organization's true agenda: managed care, not individual choice.

Compassion & Choices President, Barbara Coombs Lee, is a former "managed care executive."75

D. Oregon's Annual Report for 2013 is Consistent with Elder Abuse and the "Barbara Wagner" Scenario

According to Oregon's annual assisted suicide report for 2013, most of the people who died from a lethal dose were white, aged 65 or older, and well-educated.76 People with these attributes are typically well off, i.e., the middle class and above.

The report's introduction implies that their deaths were voluntary, stating that Oregon's act "allows" residents to obtain a lethal dose for self-administration.77 There is nothing in the report, however, which actually says that the deaths were voluntary.78 Older well-off people are, regardless, in a

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74 Coombs Lee stated:

The burning public policy question is whether we inadvertently encourage patients to act against their own self-interest, chase an unattainable dream of cure, and foreclose the path of acceptance that curative care has been exhausted . . . . Such encouragement serves neither patients, families, nor the public. (Attached at A-71)

75 Barbara Coombs Lee Bio, attached hereto at A-73.

76 Report, page 2, attached hereto at A-55, last full paragraph.

77 Id., page 1, attached hereto at A-54.

78 Report, pages 1-7, starting at A-54.
vulnerable demographic for abuse and exploitation. This includes murder. A 2009 MetLife Mature Market Institute Study states:

Elders' vulnerabilities and larger net worth make them a prime target for financial abuse . . . Victims may even be murdered by perpetrators who just want their funds and see them as an easy mark. 79

The Oregon report, in which most of the people dying under the act were older and well-off, is consistent with financial elder abuse. The report, which also describes patients on Medicaid, is consistent with the "Barbara Wagner" scenario.

E. In Oregon, Other (Regular) Suicides Have Increased with Legalization of Physician-Assisted Suicide; the Financial Cost is "Enormous."

Government reports from Oregon show a positive statistical correlation between the legalization of physician-assisted suicide and an increase in other (regular) suicides. Of course, a statistical correlation does not prove causation. The statistical correlation is, however, consistent with a suicide contagion in which legalizing and thereby normalizing assisted suicide encouraged other suicides. Please consider the following:

Oregon's assisted suicide act went into effect "in late 1997." 60

79 The MetLife Study can be viewed at this link: https://www.metlife.com/assets/cao/mmi/publications/studies/mmi-study-broken-trust-elders-family-finances.pdf See other MetLife materials at attached hereto at A-54 to A-59.

60 Oregon’s assisted suicide report for 2013, attached at A-54.
By 2000, Oregon's regular suicide rate was "increasing significantly."[^81]

In a 2010 report, Oregon's regular suicide rate was 35% above the national average.^[82]

In a 2012 report, Oregon's regular suicide rate was 41% above the national average.^[83]

In Oregon’s most recent regular suicide report, the financial cost of these other (regular) suicides is huge. The report, page 3, elaborates:

> The cost of suicide is enormous. In 2010 alone, self-inflicted injury hospitalization charges exceeded $41 million dollars; and the estimate of total lifetime cost of suicide in Oregon was over $680 million dollars.^[84]

Oregon is the only state where there has been legalization of assisted suicide long enough to have statistics over time. The enormous cost of increased (regular) suicides in Oregon, positively correlated to physician-assisted suicide legalization, is a significant factor for this body to consider in its vote on A2270, which seeks to legalize physician-assisted suicide in New Jersey.


[^82]: Id.

[^83]: Attached at A-82.

[^84]: Attached at A-83.
F. Legal Assisted Suicide can be Traumatic for Patients and Their Families.

1. The Swiss study

In 2012, a study was released in Switzerland, addressing trauma suffered by persons who witnessed an assisted suicide. The study found that 1 out of 5 family members or friends present at an assisted suicide were traumatized. These persons:

- experienced full or sub-threshold PTSD (Post Traumatic Stress Disorder) related to the loss of a close person through assisted suicide.

2. My cases involving the Oregon and Washington assisted suicide laws

I have had two clients whose parents signed up for the lethal dose. In the first case, one side of the family wanted the parent to take the lethal dose, while the other did not. He spent the last months of his life caught in the middle and traumatized over whether or not he should kill himself. My

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86 Id.

87 Id.

client, his adult daughter, was also traumatized. The father did not take the lethal dose and died a natural death.

In the other case, it's not clear that administration of the lethal dose was voluntary. A man who was present told my client that his father refused to take the lethal dose when it was delivered ("You're not killing me. I'm going to bed"), but then took it the next night when he was high on alcohol. The man who told this to my client later recanted. My client did not want to pursue the matter further.

G. Pain is not the Issue.

The Oregon assisted suicide report for 2013 lists "concerns" as to why the people who ingested the lethal dose did so.\footnote{Oregon Report, page 6, attached hereto at A-59.} One listed concern is "inadequate pain control or concern about it."\footnote{Id.} There is, however, no claim that anyone who ingested the lethal dose was actually in pain.\footnote{See entire report, attached hereto at A-54 to A-60.}

Per the report for 2013, there were 20 patients who listed a concern about "inadequate pain control or concern about it" as a reason to do Oregon’s act.\footnote{Report at A-59.} This is 20 people out of 32,475 total deaths in Oregon.\footnote{Report at A-55, footnote 1 (total Oregon deaths in 2012 was 32,475) Again, there is no claim that any one
of these persons was actually in pain. Pain is not the issue.

VII. CONCLUSION

A2270's promise of patient choice and voluntariness is an illusion. The bill is instead a recipe for elder abuse, especially for people with money (the middle class and above). The most obvious gap is the lack of witnesses at the death. Even if a patient struggled, who would know?

Don't make Washington's mistake. I urge you to reject A2270.

Respectfully submitted, June 1, 2014

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SYNOPSIS
“Aid in Dying for the Terminally Ill Act;” permits qualified patient to self-administer medication to end life in humane and dignified manner.

CURRENT VERSION OF TEXT
As reported by the Assembly Health and Senior Services Committee on June 5, 2014, with amendments.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. (New section) Sections 1 through 21 of this act shall be known and may be cited as the ["New Jersey Death with Dignity Act." ] "Aid in Dying for the Terminally Ill Act."

2. (New section) The Legislature finds and declares that:
   a. The public welfare requires a defined and safeguarded process, with procedural safeguards to protect the interests of patients and health care providers, by which a patient who is an adult New Jersey resident with the capacity to make health care decisions, and who has been determined by that individual's attending physician and consulting physician to be suffering from a terminal disease that will cause death within six months, may obtain medication that the patient may self-administer to end his life in a humane and dignified manner;
   b. The public welfare requires that such a process be entirely voluntary on the part of all participants, including the patient, the patient's physicians, and any other health care provider furnishing services or care to the patient; and
   c. This act is necessary for the welfare of the State and its residents, and it is intended that it be liberally construed to effectuate its purposes.

3. (New section) As used in this act:
   "Adult" means an individual who is 18 years of age or older.
   "Attending physician" means the physician who has primary responsibility for the care of a patient and treatment of the patient's terminal disease.
   "Capable" means having the capacity to make health care decisions and to communicate them to a health care professional, including communication through persons familiar with the patient's manner of communicating if those persons are available.
   "Consulting physician" means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding a patient's disease.
   "Counseling" means one or more consultations as necessary between a psychiatrist or psychologist licensed pursuant to Title 45 of the Revised Statutes and a patient for the purpose of determining

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Assembly AHE committee amendments adopted June 5, 2014.
that the patient is capable and not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

“Health care facility” means a health care facility licensed pursuant to P.L. 1971, c.136 (C.26:2H-1 et seq.)

“Health care professional” means a person licensed to practice a health care profession pursuant to Title 45 of the Revised Statutes.

“Informed decision” means a decision by a qualified patient to request and obtain a prescription for medication that the qualified patient may self-administer to end the patient’s life in a humane and dignified manner, which is based on an appreciation of the relevant facts and after being fully informed by the attending physician of:

(1) the patient’s medical diagnosis;
(2) the patient’s prognosis;
(3) the potential risks associated with taking the medication to be prescribed;
(4) the probable result of taking the medication to be prescribed; and
(5) the feasible alternatives to taking the medication, including, but not limited to, palliative care, hospice care, and pain control.

“Medically confirmed” means that the medical opinion of the attending physician has been confirmed by a consulting physician who has examined the patient and the patient’s relevant medical records.

“Participating in this act” or “participation in this act” means to perform the duties of an attending physician or consulting physician, a psychiatrist or psychologist providing counseling, or a pharmacist dispensing medication, in accordance with the provisions of this act, but does not include: making an initial determination that a patient has a terminal disease and informing the patient of the medical prognosis; providing information about the provisions of this act to a patient upon the patient’s request; or providing a patient, upon the patient’s request, with a referral to another physician.

“Patient” means a person who is under the care of a physician.

“Physician” means a doctor of medicine or osteopathy licensed to practice medicine in New Jersey by the State Board of Medical Examiners.

“Qualified patient” means a capable adult who is a resident of New Jersey and has satisfied the requirements of this act in order to obtain a prescription for medication that the qualified patient may self-administer to end the patient’s life in a humane and dignified manner. A person shall not be considered to be a qualified patient solely because of the person’s age or disability.

“Self-administer” means a qualified patient’s act of ingesting medication to end that individual’s life in a humane and dignified manner.
"Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, result in a patient's death within six months.

4. (New section) A patient may make a written request for medication that the patient may self-administer in order to end that individual's life in a humane and dignified manner in accordance with the provisions of this act, if the patient:
   a. is an adult resident of New Jersey;
   b. is capable and has been determined by the patient's attending physician and consulting physician to be suffering from a terminal disease; and
   c. has voluntarily expressed a wish to die.

5. (New section) a. A valid request for medication under this act shall be in substantially the form set forth in section 20 of this act, signed and dated by the patient and witnessed by at least two individuals who, in the patient's presence, attest that, to the best of their knowledge and belief, the patient is capable and is acting voluntarily to sign the request.
   b. At least one of the witnesses shall be a person who is not:
      (1) a relative of the patient by blood, marriage, or adoption;
      (2) at the time the request is signed, entitled to any portion of the estate of the qualified patient upon the patient's death under any will or by operation of law; and
      (3) an owner, operator, or employee of a health care facility where the qualified patient is receiving medical treatment or is a resident.
   c. The patient's attending physician at the time the request is signed shall not serve as a witness.
   d. If, at the time the written request is made, the patient is a resident of a long-term care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), one of the witnesses shall be an individual designated by the facility.

6. (New section) a. The attending physician shall ensure that all appropriate steps are carried out in accordance with the provisions of this act before writing a prescription for medication to enable a qualified patient to end the patient's life in a humane and dignified manner, for which purpose that physician shall:
   (1) make the initial determination of whether a patient has a terminal disease, is capable, and has made the request for medication voluntarily;
   (2) require that the patient demonstrate New Jersey residency;
   (3) inform the patient of: the patient's medical diagnosis; the patient's prognosis; the potential risks associated with taking the medication to be prescribed; the probable result of taking the medication to be prescribed; and the feasible alternatives to taking
the medication, including, but not limited to, palliative care, hospice care, and pain control;
(4) refer the patient to a consulting physician for medical confirmation of the diagnosis, and for a determination that the patient is capable and acting voluntarily;
(5) refer the patient for counseling, if appropriate, pursuant to this act;
(6) recommend that the patient notify the patient’s next of kin of the patient’s decision to request the medication;
(7) advise the patient about the importance of having another person present when the patient takes the medication prescribed under this act and of not taking the medication in a public place;
(8) inform the patient of the patient’s opportunity to rescind the request at any time and in any manner, and offer the patient an opportunity to rescind the request at the end of the 15-day waiting period required by this act;
(9) verify, immediately before writing the prescription for medication under this act, that the patient is making an informed decision to request the medication; and
(10) fulfill the medical record documentation requirements of this act.

b. The attending physician shall:
(1) dispense medication directly, including ancillary medication intended to facilitate the desired effect to minimize the patient’s discomfort, if the attending physician is authorized under law to dispense and has a current federal Drug Enforcement Administration certificate of registration; or
(2) with the patient’s written consent:
(a) contact a pharmacist to inform the latter of the prescription; and
(b) transmit the written prescription personally, by mail, or by otherwise permissible electronic communication to the pharmacist, who shall dispense the medication directly to either the patient, the attending physician, or an expressly identified agent of the patient. Medication dispensed pursuant to this subsection shall not be dispensed to the patient by mail or other form of courier.

c. The attending physician may sign the patient’s death certificate, which shall list the underlying terminal disease as the cause of death.

7. (New section) A person shall not be considered a qualified patient until a consulting physician has:

a. examined that person and the person’s relevant medical records;

b. confirmed, in writing, the attending physician’s diagnosis that the person is suffering from a terminal disease; and
c. verified that the person is capable, is acting voluntarily, and
has made an informed decision to request medication to end the
person's life in a humane and dignified manner.

8. (New section) If, in the opinion of the attending physician
or the consulting physician, a patient may be suffering from a
psychiatric or psychological disorder or depression causing
impaired judgment, either physician shall refer the patient for
counseling. Medication to end a patient's life in a humane and
dignified manner shall not be prescribed unless the person
performing the counseling determines that the patient is not
suffering from a psychiatric or psychological disorder or depression
causing impaired judgment.

9. (New section) A patient shall not receive a prescription for
medication to end the patient's life in a humane and dignified
manner unless the patient has made an informed decision.
Immediately before writing a prescription for medication pursuant
to this act, the attending physician shall verify that the patient is
making an informed decision.

10. (New section) A patient shall not receive a prescription for
medication to end the patient's life in a humane and dignified
manner unless the attending physician has recommended that the
patient notify the patient's next of kin of the patient's request for
medication pursuant to this act, except that a patient who declines
or is unable to notify the patient's next of kin shall not have the
request for medication denied for that reason.

11. (New section) a. In order to receive a prescription for
medication that a qualified patient may self-administer to end the
patient's life in a humane and dignified manner, the patient shall
make an oral request and a written request for the medication, and
reiterate the oral request to the patient's attending physician at least
15 days after making the initial oral request. At the time the patient
makes a second oral request, the attending physician shall offer the
patient an opportunity to rescind the request.

(1) At least 15 days shall elapse between the patient's initial oral
request and the writing of a prescription pursuant to this act.

(2) At least 48 hours shall elapse between the time the patient
signs the written request and the writing of a prescription pursuant
to this act.

b. A qualified patient may rescind the request at any time and
in any manner without regard to the patient's mental state. The
attending physician shall not write a prescription for medication
pursuant to this act without offering the patient an opportunity to
rescind the request.
c. The following items shall be documented in the patient's medical record for the purposes of this act:

(1) the oral requests and the written request by the patient to the attending physician for medication to end the patient's life in a humane and dignified manner;

(2) the attending physician's diagnosis and prognosis, and determination that the patient is capable, is acting voluntarily, and has made an informed decision;

(3) the consulting physician's diagnosis and prognosis, and verification that the patient is capable, is acting voluntarily, and has made an informed decision;

(4) a report of the outcome and determinations made during counseling of the patient pursuant to this act;

(5) the attending physician's offer to the patient to rescind the patient's request at the time of the patient's second oral request; and

(6) a note by the attending physician indicating that all requirements under this act have been met and indicating the steps taken to carry out the patient's request for medication, including a notation of the medication prescribed.

12. (New section) A request for medication pursuant to this act shall not be granted unless the qualified patient has documented that individual's New Jersey residency by furnishing to the attending physician a copy of one of the following as applies to that individual:

a. a driver's license or non-driver identification card issued by the New Jersey Motor Vehicle Commission;

b. proof that the person is registered to vote in New Jersey;

c. a New Jersey resident gross income tax return filed for the most recent tax year; or

d. any other government record that the attending physician reasonably believes to demonstrate the individual's current residency in this State.

13. (New section) Any medication dispensed pursuant to this act that is not self-administered by a qualified patient shall be disposed of by lawful means.

14. (New section) a. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall require that a health care professional report the following information to the division on a form and in a manner prescribed by regulation of the director:

(1) No later than 30 days after the dispensing of medication pursuant to this act, the health care professional who dispensed the medication shall file a copy of the dispensing record with the division, and shall otherwise facilitate the collection of such
information as the director may require regarding compliance with
this act.

(2) No later than 30 days after the date of the patient's death, the
physician who prescribed the medication shall transmit to the
division such documentation of the patient's death as the director
shall require.

(3) In the event that anyone required to report information to the
division pursuant to this act provides an inadequate or incomplete
report, the division shall contact the person to request a complete
report.

b. Any information collected pursuant to subsection a. of this
section that contains material or data that could be used to identify
an individual patient or health care professional shall not be
included under materials available to public inspection pursuant to
et al.).

c. The division shall prepare and make available to the public
on its Internet website an annual statistical report of information
collected pursuant to subsection a. of this section.

15. (New section) a. A provision in a contract, will, insurance
policy, annuity, or other agreement, whether written or oral, made
on or after the effective date of this act, shall not be valid to the
extent that the provision would condition or restrict a person's
decision to make or rescind a request for medication to end the
person's life in a humane and dignified manner.

b. An obligation owing under a contract, will, insurance policy,
anuity, or other agreement, made before the effective date of this
act, shall not be affected by: the provisions of this act; a person's
making or rescinding a request for medication to end the person's
life in a humane and dignified manner; or any other action taken
pursuant to this act.

c. On or after the effective date of this act, procurement or
issuance of a life, health, or accident insurance policy or annuity or
the premium or rate charged for the policy or annuity shall not be
conditioned upon or otherwise take into account the making or
rescinding of a request for medication pursuant to this act by any
person.

16. (New section) Nothing in this act shall be construed to:

a. authorize a physician or any other person to end a patient's
life by lethal injection, active euthanasia, or mercy killing; or

b. lower the applicable standard of care to be provided by a
health care professional who participates in this act.

17. (New section) a. (1) A person shall not be subject to civil
or criminal liability or professional disciplinary action for any
action taken in compliance with the provisions of this act, including
being present when a qualified patient takes medication to end the
patient's life in a humane and dignified manner pursuant to this act.
A person who substantially complies in good faith with the
provisions of this act shall be deemed to be in compliance with the
act.

(2) Any action taken in accordance with the provisions of this
act shall not constitute suicide, assisted suicide, mercy killing, or
homicide under any criminal law of this State.

(3) A patient's request for, or the provision of, medication in
compliance with the provisions of this act shall not constitute
neglect for any purpose of law or provide the sole basis for the
appointment of a guardian or conservator.

b. Any action taken by a health care professional to participate
in this act shall be voluntary on the part of that individual. If a
health care professional is unable or unwilling to carry out a
patient's request under this act, and the patient transfers his care to a
new health care professional, the prior health care professional shall
transfer, upon request, a copy of the patient's relevant records to the
new health care professional.

18. (New section) a. A person who, without authorization of
the patient, willfully alters or forges a request for medication
pursuant to this act, or conceals or destroys a rescission of that
request with the intent or effect of causing the patient's death, is
guilty of a crime of the second degree.

b. A person who coerces or exerts undue influence on a patient
to request medication to end the patient's life, or to destroy a
rescission of a request, is guilty of a crime of the third degree.

c. Nothing in this act shall limit liability for civil damages
resulting from the negligence or intentional misconduct of any
person.

d. The penalties set forth in this section shall not preclude the
imposition of any other criminal penalty applicable under law for
conduct that is inconsistent with the provisions of this act.

19. (New section) Any governmental entity that incurs costs
resulting from a person terminating his life pursuant to this act in a
public place has a claim against the estate of the person to recover
such costs and reasonable attorneys' fees related to enforcing the
claim.

20. (New section) A request for a medication as authorized by
this act shall be in substantially the following form:
REQUEST FOR MEDICATION TO END MY LIFE IN A
HUMANE AND DIGNIFIED MANNER

I, . . . . . . . . . . . . . . . . . . . . . . . , am an adult of sound mind and a resident
of New Jersey.

I am suffering from . . . . . . . . . . . . . . . . . . . . . . . . . . . , which my attending
physician has determined is a terminal disease and which has been
medically confirmed by a consulting physician.

I have been fully informed of my diagnosis, prognosis, the nature
of medication to be prescribed and potential associated risks, the
expected result, and the feasible alternatives, including palliative
care, hospice care, and pain control.

I request that my attending physician prescribe medication that I
may self-administer to end my life in a humane and dignified
manner and to contact any pharmacist to fill the prescription.

INITIAL ONE:

. . . . I have informed my family of my decision and taken their
opinions into consideration.

. . . . I have decided not to inform my family of my decision.

. . . . I have no family to inform of my decision.

I understand that I have the right to rescind this request at any
time.

I understand the full import of this request and I expect to die if
and when I take the medication to be prescribed. I further
understand that although most deaths occur within three hours, my
death may take longer and my physician has counseled me about
this possibility.

I make this request voluntarily and without reservation, and I
accept full moral responsibility for my actions.

Signed: . . . . . . . . . . . . .

Dated: . . . . . . . . . . . .

DECLARATION OF WITNESSES

By initialing and signing below on or after the date the person
named above signs, we declare that the person making and signing
the above request:

Witness 1     Witness 2
Initials      Initials

1. Is personally known to us or has provided proof of identity.
2. Signed this request in our presence on the date of the person's signature.

3. Appears to be of sound mind and not under duress, fraud, or undue influence.

4. Is not a patient for whom either of us is the attending physician.

Printed Name of Witness 1:

Signature of Witness 1/Date:

Printed Name of Witness 2:

Signature of Witness 2/Date:

NOTE: At least one witness shall not be a relative by blood, marriage, or adoption of the person signing this request, shall not be entitled to any portion of the person's estate upon death, and shall not own, operate, or be employed at a health care facility where the person is a patient or resident. If the patient is a resident of a long-term care facility, one of the witnesses shall be an individual designated by the facility.

21. (New section) The Director of the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are necessary to implement the provisions of sections 1 through 20 of this act, including the required reporting of information to the division by health care providers pursuant to section 14 of this act.

22. (New section) The State Board of Medical Examiners, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are necessary to implement the provisions of sections 1 through 20 of P.L.707, c.3 (pending before the Legislature as this bill) concerning the duties of a licensed physician pursuant thereto.

23. (New section) The New Jersey State Board of Pharmacy, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are necessary to implement the provisions of sections 1 through 20 of P.L.707, c.3 (pending before the Legislature as this bill) concerning the duties of a licensed pharmacist pursuant thereto.

24. (New section) The State Board of Psychological Examiners, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are
necessary to implement the provisions of sections 1 through 20 of
P.L. , c. (C. ) (pending before the Legislature as this bill)
concerning the duties of a licensed psychologist pursuant thereto.

25. (New section) a. As used in this section:
“Health care facility” or “facility” means a health care facility
licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).
“Health care professional” means a person licensed to practice a
health care profession pursuant to Title 45 of the Revised Statutes.
b. A health care facility may adopt a written policy to prohibit
a health care professional from taking any action pursuant to
sections 1 through 20 of P.L. , c. (C. ) (pending before the
Legislature as this bill) on the premises owned by, or under the
direct control of, the facility if the facility has given prior written
notice of the written policy to all health care professionals with
privileges to practice on those premises. The provisions of this
subsection shall not preclude a health care professional from
providing to a patient any health care services to which the
provisions of sections 1 through 20 of P.L. , c. (C. ) (pending
before the Legislature as this bill) do not apply.
c. A health care professional who violates a written policy as
set forth in subsection b. of this section, after being notified in
writing of that policy, is subject to such of the following actions as
the health care facility deems appropriate:
(1) the loss of privileges or membership, or other sanctions
provided under the medical staff bylaws, policies, and procedures of
the facility if the health care professional is a member of the
medical staff at the facility and takes the prohibited action while on
the premises of that facility, but not including the private medical
office of a physician or other provider; and
(2) the termination of a lease or other contract for the occupancy
of real property or other nonmonetary remedy provided by the lease
or contract if the health care professional takes the prohibited action
while on the premises of the health care facility or on property that
is owned by or under the direct control of the facility; provided,
however, that no lease or other contract made on or after the
effective date of this act shall authorize or permit any nonmonetary
remedy for taking the prohibited action in the form of loss or
restriction of medical staff privileges or exclusion from a managed
care plan health care provider network; or
(3) the termination of a contract or other nonmonetary remedy
provided by contract if the health care professional takes the
prohibited action while acting in the course and scope of that
individual’s capacity as an employee or independent contractor of
the health care facility, except that nothing in this subparagraph
shall preclude:
(a) a health care professional from taking the prohibited action while acting outside the course and scope of that individual's capacity as an employee or independent contractor; or
(b) a patient from contracting with the patient's attending physician and consulting physician to act outside the course and scope of either physician's capacity as an employee or independent contractor of the health care facility.

(4) A health care facility shall follow all otherwise applicable due process and other procedures that the facility may have in place relating to the imposition of sanctions on a health care professional.

26. Section 1 of P.L.1991, c.270 (C.2A:62A-16) is amended to read as follows:

1. a. Any person who is licensed in the State of New Jersey to practice psychology, psychiatry, medicine, nursing, clinical social work, or marriage counseling, whether or not compensation is received or expected, is immune from any civil liability for a patient's violent act against another person or against himself unless the practitioner has incurred a duty to warn and protect the potential victim as set forth in subsection b. of this section and fails to discharge that duty as set forth in subsection c. of this section.

b. A duty to warn and protect is incurred when the following conditions exist:

(1) The patient has communicated to that practitioner a threat of imminent, serious physical violence against a readily identifiable individual or against himself and the circumstances are such that a reasonable professional in the practitioner's area of expertise would believe the patient intended to carry out the threat; or

(2) The circumstances are such that a reasonable professional in the practitioner's area of expertise would believe the patient intended to carry out an act of imminent, serious physical violence against a readily identifiable individual or against himself.

A duty to warn and protect shall not be incurred when a qualified patient requests medication that the patient may self-administer in order to end the patient's life in a humane and dignified manner in accordance with the provisions of P.L. ... (pending before the Legislature as this bill).

c. A licensed practitioner of psychology, psychiatry, medicine, nursing, clinical social work, or marriage counseling shall discharge the duty to warn and protect as set forth in subsection b. of this section by doing [any] one or more of the following:

(1) Arranging for the patient to be admitted voluntarily to a psychiatric unit of a general hospital, a short-term care facility, a special psychiatric hospital, or a psychiatric facility, under the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.);

(2) Initiating procedures for involuntary commitment to treatment of the patient to an outpatient treatment provider, a short-term care facility, a special psychiatric hospital or a psychiatric
facility, under the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.);
(3) Advising a local law enforcement authority of the patient's threat and the identity of the intended victim;
(4) Warning the intended victim of the threat, or, in the case of an intended victim who is under the age of 18, warning the parent or guardian of the intended victim; or
(5) If the patient is under the age of 18 and threatens to commit suicide or bodily injury upon himself, warning the parent or guardian of the patient.

d. A practitioner who is licensed in the State of New Jersey to practice psychology, psychiatry, medicine, nursing, clinical social work, or marriage counseling who, in complying with subsection c. of this section, discloses a privileged communication, is immune from civil liability in regard to that disclosure.

(cf: P.L.2009, c.112, s.21)

27. N.J.S.2C:11-6 is amended to read as follows:
2C:11-6. 1Aiding Suicide. A person who purposely aids another to commit suicide is guilty of a crime of the second degree if his conduct causes such suicide or an attempted suicide, and otherwise of a crime of the fourth degree. Any action taken in accordance with the provisions of P.L. . c. (pending before the Legislature as this bill) shall not constitute suicide or assisted suicide.
(cf: P.L.1978, c.95, s.2C:11-6)

1[28. This act shall be submitted to the people for their approval or rejection at the next general election to be held at least 70 days following the date of its enactment for the purpose of complying with Article II, Section 1, paragraph 2 of the New Jersey Constitution.]

1[29. This voter referendum shall be submitted to the people in the following manner and form:
There shall be printed on each official ballot to be used at the general election, the following:
 a. In every municipality in which voting machines are not used, a legend which shall immediately precede the question as follows:
   If you favor the proposition printed below make a cross (X), plus (+), or check (✓) in the square opposite the word "Yes." If you are opposed thereto make a cross (X), plus (+) or check (✓) in the square opposite the word "No."
 b. In every municipality the following question:
<table>
<thead>
<tr>
<th><strong>YES</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>AUTHORIZATION TO ALLOW CERTAIN PERSONS TO USE MEDICATION TO END THEIR LIFE IN A HUMANE AND DIGNIFIED WAY</strong></td>
</tr>
<tr>
<td>Do you approve allowing an adult who is able to make health care decisions and has a terminal disease that will cause death within six months to use a prescribed drug to end his life in a humane and dignified way?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>NO</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>INTERPRETIVE STATEMENT</strong></td>
</tr>
<tr>
<td>Voter approval of P. L., c. (C. ) (pending before the Legislature as this bill) will permit an adult who is able to make health care decisions and has a terminal disease that will cause death within six months to use a prescribed drug to end his life in a humane and dignified way.</td>
</tr>
</tbody>
</table>

1 This act shall take effect on the first day of the [third] fourth month next following voter approval of this act at the designated general election, but the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, the Commissioner of Health, the State Board of Medical Examiners, the New Jersey State Board of Pharmacy, and the State Board of Psychological Examiners may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.
(b) His or her prognosis;

(c) The potential risks associated with taking the medication to be prescribed;

(d) The probable result of taking the medication to be prescribed; and

(e) The feasible alternatives, including, but not limited to, comfort care, hospice care and pain control.

(8) "Medically confirmed" means the medical opinion of the attending physician has been confirmed by a consulting physician who has examined the patient and the patient's relevant medical records.

(9) "Patient" means a person who is under the care of a physician.

(10) "Physician" means a doctor of medicine or osteopathy licensed to practice medicine by the Oregon Medical Board.

(11) "Qualified patient" means a capable adult who is a resident of Oregon and has satisfied the requirements of ORS 127.800 to 127.897 in order to obtain a prescription for medication to end his or her life in a humane and dignified manner.

(12) "Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six months.

CREDIT(S)


HISTORICAL AND STATUTORY NOTES

The 1999 amendment inserted a definition of capable and deleted one of incapable and redefined counseling.

O. R. S. § 127.800, ORS § 127.800


Revisions to Acts made by the Oregon Reviser were unavailable at the time of publication.

Derek Humphry to be Keynote Speaker at 2011 Annual Meeting

This year our keynote speaker will be Derek Humphry, the author of *Final Exit* and the founder of the Hemlock Society USA in 1980. Derek is generally considered to be the father of the modern movement for choice at the end of life in America.

Derek is a British journalist and author who has lived in the United States since 1978, the same year he published the book *Jean's Way* describing his first wife’s final years of suffering from cancer and his part in helping her to die peacefully. The public response to the book caused him to start the Hemlock Society USA in 1980 from his garage in Santa Monica. Years later, the Hemlock Society would become End of Life Choices and then merge with Compassion In Dying to become Compassion & Choices.

In 1991 he published *Final Exit*. Much to his surprise, it became the national #1 bestseller within six months. Since then it has been translated into 12 languages and is now in its fourth edition.

Although not affiliated with – and sometimes even at odds with – Compassion & Choices, Derek is still actively involved in the movement. Always interesting and sometimes controversial, Derek will provide our supporters and their guests with his perspective about the evolution of the movement for choice at the end of life in America.
His mind was keen, his grin infectious. His passions were politics and sports. He read voraciously. His humor was prankish, his wit razor-sharp.

Born and raised in Eugene, he adored his parents and four brothers. He graduated from South Eugene High School and the University of Michigan.

For years, he struggled through bouts of pain and fatigue that defied medical diagnosis and left him depressed about his inability to carry on normal daily activities and fearful that he would never regain normal health.

He had dreams, ambitions, accomplishments and, say many who knew him, vast potential.

But three months ago, in the throes of a flu that upended a period of relatively good health, Nick Klonoski took his own life.
He had just turned 29.

Klonoski did not use any of the commonly known methods of suicide. Instead, he employed a "helium hood kit" that he ordered by mail from a two-person company in Southern California.

The small, white box, measuring 10 by 7 by 3 inches and decorated with a butterfly, holds a brown paper packet, its edges zigzagged with pinking shears and stitched shut on a sewing machine. Inside the packet is a clear plastic bag with an elasticized band sewn to the open end, to slip over the head and fit snugly around the neck. The box also contains clear plastic tubing, for hooking up tanks of lethal helium gas.

Manufactured and sold by The Gladd Group, the helium hood kit has no other use than to assist a person contemplating suicide. It costs $60, payable only by cash or check. According to Manta, an online business networking site where small-business owners can share information, The Gladd Group has two employees and estimated annual sales of $98,000 — equal to the price of 1,633 kits.

Selling a "suicide kit" — coupled with detailed instructions from another right-to-suicide organization on where to buy it and how to use it — raises complex legal, ethical and emotional questions about what constitutes helping another person to take his or her own life. Assisting another person’s suicide violates the law in most states, including Oregon. But definitions of aiding, promoting, encouraging or assisting are not legally precise.

No one to date has been prosecuted for selling a helium hood kit in the United States. Many police agencies, medical examiners, district attorneys and legislators know little or nothing about the kits, although now that he is aware of them, state Sen. Floyd Prozanski, D-Eugene, says he’s drafting a bill to outlaw their sale.

The right-to-suicide movement argues that disseminating how-to information about suicide and selling the kits that facilitate the act are protected by the free speech clause of the First Amendment in the U.S. Constitution.

On the afternoon he died, Klonoski drove to a party goods store not far from his family’s Eugene home. A store receipt police found in his room shows that at 2:16 p.m., he signed for rental of a large tank of helium. Returning home, with the rest of his family out of the house for the afternoon — all five brothers had gathered at the family
home for the holidays — he followed the instructions for using the helium hood kit as
detailed in “Final Exit,” a book written by longtime pro-suicide activist and longtime
Lane County resident, Derek Humphry. He died in his bedroom before his family
returned.

Jake Klonoski, at 30 the oldest of the Klonoski brothers, found his next-younger
brother’s body after Nick didn’t respond to attempts to call him to dinner.

“I know Nick was vulnerable because of the health issues he had been dealing with for
years, but he wasn’t terminally ill, and he seemed to have been getting better until the
flu thing happened,” Jake Klonoski said. “He had family and many friends to help him
through the bad times and then enjoy the good times with him. Now I know there also
are people out there ready to persuade people like Nick to give up.”

Nearly 1,000 people, including a former governor and a busload of colleagues from one
of his many political projects, packed Temple Beth Israel’s huge sanctuary — the only
place large enough to accommodate the crowd on a cold sunny afternoon in early
January — to honor Nick Klonoski’s life. Although the family is not Jewish, his brothers
wore yarmulkes, bright yellow imprinted with the blue emblem of the University of
Michigan, in his honor. Speakers laughed and cried as they chronicled his intellectual
brilliance and mischievous nature, and mourned the loss of his immense possibilities.

Overwhelmed by his death, his mother, U.S. District Court Judge Ann Aiken, declines to
speak publicly about it. His father, retired University of Oregon political science
professor James Klonoski, died two years ago. But two of his brothers, Jake and Zach
Klonoski, are determined to speak out, to stop what they consider illegal and immoral
assisted suicide.

“The company that sells this kit obviously is purposely targeting a vulnerable group,”
said Jake Klonoski, a law student at Stanford University. “They made money off my
brother, they gave him the tools to take his own life without knowing him, without
knowing anything about him. For $60, they blew his life apart. It breaks my heart.”

When it comes to promoting an American’s right to die by suicide, all roads lead to
Derek Humphry. He describes himself in an online autobiography as “a journalist and
author who has spent the last 30 years campaigning for lawful physician-assisted dying
to be an option for the terminally and hopelessly ill.”
Opinion 2.211 - Physician-Assisted Suicide

Physician-assisted suicide occurs when a physician facilitates a patient's death by providing the necessary means and/or information to enable the patient to perform the life-ending act (eg, the physician provides sleeping pills and information about the lethal dose, while aware that the patient may commit suicide).

It is understandable, though tragic, that some patients in extreme duress—such as those suffering from a terminal, painful, debilitating illness—may come to decide that death is preferable to life. However, allowing physicians to participate in assisted suicide would cause more harm than good. Physician-assisted suicide is fundamentally incompatible with the physician's role as healer, would be difficult or impossible to control, and would pose serious societal risks.

Instead of participating in assisted suicide, physicians must aggressively respond to the needs of patients at the end of life. Patients should not be abandoned once it is determined that cure is impossible. Multidisciplinary interventions should be sought including specialty consultation, hospice care, pastoral support, family counseling, and other modalities. Patients near the end of life must continue to receive emotional support, comfort care, adequate pain control, respect for patient autonomy, and good communication. (I, IV)

HB1325 Roll Calls

Bill Title: relative to death with dignity for certain persons suffering from a terminal condition.

LSR#: 2528  Body: H  Local Govt: N  Chapter#: none  Gen Status: HOUSE

House Roll Calls:

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<th>Date</th>
<th>Vote #</th>
<th>Question/Motion</th>
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<td>03/06/2014</td>
<td>107</td>
<td>219</td>
<td>66</td>
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Senate Roll Calls:

No Rolls Calls Made by the Senate.

Disclaimer:

"ITL" Inexpedient to Legislate (Bill dead)
State of New Hampshire
House of Representatives

NH House Leadership

Speaker of the House
State Rep. Terie Norelli was elected Speaker of the House for the 2013-2014 biennium on December 5, 2012.

The Speaker's duties are varied. Not only does the Speaker preside over a House session (preserving order while enforcing and interpreting the House parliamentary rules), it is also the Speaker's responsibility to make committee appointments and refer more than 1,000 bills to the appropriate committee for review. The only time the Speaker votes is to break a tie.

Majority and Minority Leaders
The primary responsibilities of the Majority and Minority leaders are: to organize and develop party positions; to provide channels of communications between the party and the Speaker and work closely with the various groups within their party. The Majority Leader is Rep. Steve Shurtleff of Concord. Rep. Gene Chandler of Bartlett serves as the Minority Leader.

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107 North Main Street, Concord, New Hampshire, 03301, (603) 271-3661

http://www.gen.court.state.nh.us/house/abouthouse/leadership.htm

A-26
State of New Hampshire

House of Representatives

MH General Court | Bill Status Search | Roll Call Votes | Statutes | Contact Us
---|---|---|---|---

Representative Stephen Shurtleff (d)

Merrimack- District 11
Seat #:2001
Incumbent

Home Address:
11 Vinton Dr
Penacook, NH 03303-1583
Phone: (603)753-4563
Email: steve.shurtleff@leg.state.nh.us

More:

Voting Record | Bills Sponsored

House Committee Information

Committee Name: LEGISLATIVE ADMIN. SUBCOMMITTEE - ENROLLED B. RULES CRIMINAL JUSTICE AND PUBLIC SAFETY

Position:
- Member
- V Chairman
- Member

Telephone:
- 271-3529
- 271-3661
- 271-3419

Committee Function:
N/A

Personal Website:
N/A

Personal Biography:
N/A

Local Government Involvement:
N/A

Miscellaneous Information:
N/A

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107 North Main Street, Concord, New Hampshire, 03301, (603) 271-3661
Opponents of Vermont’s physician-assisted suicide law are calling on legislators and the governor to place a moratorium on the prescription of life-ending drugs.

Edward Mahoney, president of the Vermont Alliance for Ethical Health Care, said at a news conference Thursday that the law is poorly crafted and its supporters have not fully considered the ramifications of the law.

He raised several concerns about its implementation, including the lack of immunity for clinicians and pharmacists and the requirement that physicians notify terminally ill patients of the assisted-suicide option – whether or not the physician thinks it’s an ethical or a good care practice.

Mahoney and other opponents said the bill doesn’t have proper patient protections to ensure that people with
N.M. official appeals 'right to die' ruling

PINEDALE, N.M. (AP) - New Mexico Attorney General Gary King is appealing a court ruling that terminally ill patients can seek a physician’s help in dying.

King tells the Albuquerque Journal (http://blt.ly/1cUEBEb) that one of the problems with District Judge Jan Nash’s January ruling is that it doesn’t apply statewide.

King also says he wants to protect the assisted suicide law. That law classifies helping with suicide as a felony.

The case centers on Aja Riggs, a Santa Fe resident who was diagnosed with an aggressive uterine cancer. Her cancer is in remission, but doctors expect it to return.

Nash ruled that terminally ill patients have the right to aid in dying, and that “such deaths are not considered ‘suicide’ under the assisted suicide law.

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Gorgeous New Tanner Flying Off Shelves

Rate Brilliant Earth’s beyond conflict-free diamond rings, antique rings, and fine jewelry!

Seattle arrest records. Who do you know?

Rumor has it this stock might explode. Can you turn $5,000 into $500,000?

Phytoceramides is the "Botox Alternative" in a bottle.
Dec 11, 2013 6:38 PM by Sanjay Talwani - MTN News

Montana judge hears assisted suicide arguments

HELENA - The issue of physician assisted suicide was in court Tuesday.

Montanans Against Assisted Suicide(http://www.montanansagainstassistedsuicide.org/) is arguing that a policy position by the Montana Board of Medical Examiners(http://bsd.dli.mt.gov/license/bsd_boards/med_board/board_pag) implies that physician assisted suicide may be legal.
A lawyer for the Board says that the position - since rescinded, says no such thing. Michael Fanning says the group bringing the lawsuit has no real case is trying to force the issue to the Montana Supreme Court.

The position paper, written in response to doctor inquiries, said that the board would handle complaints related to assisted suicide on a case-by-case basis as it would other cases.

Margaret Dore, an attorney for MAAS, said the paper overstepped the Board's authority and implied to many that assisted suicide was legal in Montana.

"They are a board that is comprised of 11 doctors and two members of the public," she said. "It has no expertise to be making a pronouncement, that aid in dying is legal in Montana. That's the role of the legislature or a court and they are neither."

She said that such an understanding had huge implications in devaluing the lives of the sick and elderly.

That position paper - in response to the lawsuit - has since been rescinded by the Board and scrubbed from its website. But Dore said court action was still needed to prevent the Board from reinstating such a position.

She repeatedly asked District Judge Mike Menahan to weigh in on a Montana Supreme Court ruling known as Baxter, that envisions potential defenses to doctors charged with homicide for assisting with suicide.

But Menahan said it wasn't the role of a district judge to rule on a Montana Supreme Court order.

Michael Fanning, an attorney for the Board, said MAAS had no standing to bring the lawsuit, has suffered no damages from the Board's rescinded position and was simply jockeying to get the case before the Montana Supreme Court in hopes of overturning the Baxter ruling.

"This most certainly is a political question, a philosophical question or an academic debate, but it is not a lawsuit," he said. "In fact, this is a feigned case. It was contrived simply to bring this matter before you."

Menahan did not immediately rule on the case.
Montanans Against Assisted Suicide (MAAS) appeals Montana Medical Board lawsuit. MAAS seeks permanent removal of a position statement that wrongly implies that assisted suicide is legal in Montana; appeal will also allow MAAS to continue its ongoing challenge to Montana's assisted suicide case, Baxter v. State.

"The only reason the Board of Medical Examiners abandoned their position paper was to get rid of our lawsuit," said Margaret Dore, Attorney for MAAS. "That's not good enough. They're just going to come back again with a new angle in the future that they hope will get around the legislature. The position paper was a significant 'toe in the door' to the attempted backdoor legalization of assisted suicide in Montana. The Board will attempt to do it again using another angle."

Appeal will also allow MAAS to continue its ongoing challenge to the decision in Baxter v. State, which suicide proponents claim legalized assisted suicide in Montana. A MTN News article describes the situation, as follows:

[The] position paper - in response to the lawsuit - has since been rescinded by the Board and scrubbed from its website. But [MAAS's attorney, Margaret] Dore said court action was still needed to prevent the Board from reinstating such a position.

She repeatedly asked District Judge Mike Menahan to weigh in on a Montana Supreme Court ruling known as Baxter, that envisions potential defenses to doctors charged with homicide for assisting with suicide.*

Problems with legalizing assisted suicide include that it encourages people with years to live, to throw away their lives. Legalization also creates new opportunities for elder abuse, for example, when there is an inheritance involved. In Oregon, legalization has enabled that state's health plan (Medicaid) to offer the "treatment" of suicide in lieu of desired treatments (to improve the quality of life, to extend life or to cure).**

For Bradley Williams, President of MAAS, preventing assisted suicide legalization is up front and personal. He says, "I'm 64 years old. I don't want a doctor or anyone else telling me or my wife that we should go kill ourselves."
MAAS is a single issue group that welcome everyone opposed to assisted-suicide regardless of their views on other issues. In 2013, MAAS and its allies easily defeated Senate Bill 220, which had sought to legalize assisted suicide in Montana. MAAS's own bill, HB 505, which had sought to reverse Baxter's holding and give prosecutors a lower sentencing option, passed the House, but was defeated by four votes in the Senate before it was tabled.

* To view a copy of the MTV News article, go here:

** To view a copy of "Quick Facts Against Assisted Suicide," go here:
SB 220 Defeated

On February 13, 2013, an Oregon-style assisted suicide bill, SB 220, was defeated and tabled in the Senate Judiciary Committee's executive session.

The vote to defeat SB 220 was 7 to 5.

The vote to table was 9 to 3.

* For a legal and policy analysis of the defeated bill, SB 220, see this link: http://maasdocuments.files.wordpress.com/2013/02/mt-no-on-sb-220_0011.pdf

** To view the bill's information page, go here.

Jeanette Hall, 12 years after her doctor talked her out of physician-assisted suicide in Oregon - Click photo to read her story

Voices From Oregon and Washington Where Assisted Suicide is Legal

- "I was afraid to leave my husband alone"
- "If Dr. Stevens had believed in assisted suicide, I would be dead"
- "In Oregon, the only help my patient received was a lethal prescription, intended to kill him."
- "It wasn't the father saying that he wanted to die"
- "He made the mistake of asking about assisted suicide"

Law Enforcement Viewpoint Against Assisted Suicide

Philip Tummarello,

http://www.montanansagainstassistedsuicide.org/p/sb-220-tabled.html
Arizona Gov. Jan Brewer signs 35 bills into law

By Associated Press

PHOENIX (AP) - Arizona Gov. Jan Brewer signed 35 bills into law Wednesday, including ones making it a felony for jilted lovers to post explicit pictures online of former flames for revenge, creating a memorial at the site where 19 Prescott/ topics/prescott/ wildland firefighters died last year and preventing the city from having to pay all of the expense of pensions paid to the firefighters' survivors.

Brewer's actions on Wednesday bring to 278 the number of bills the Republican governor has signed since January.

Brewer also vetoed five bills, including one that one requiring an outside review of the state's child welfare agency and setting aside $250,000 for the cost. That brings her veto total for the year to 24.

The "revenge porn" bill championed by Rep. J.D. Mesnard, R-Chandler, is one of many measures being considered across the nation in response to the posting of sexually explicit photos that has been made easier by the growth of social networking sites. Last year, California made it a misdemeanor to post such images.

House Bill 2515 passed the Senate/topics/senate/) and House unanimously. The bill also defines some postings as acts of domestic violence.

Brewer also signed a bill that will allow optometrists to prescribe certain drugs. House Bill 2380 drew contentious debate in the final week of the legislative session last week, splitting Republicans and Democrats along unusual non-party lines. Opponents called it dangerous. They argued that non-physicians should not be able to prescribe drugs and puts patients at risk because optometrists don't have the training to properly monitor for adverse reactions.

Supporters said optometrists are skilled medical professionals who need the authority to treat their patients.

Brewer also signed a bill that would help expedite the approval process for parents of students in the state school voucher program. Brewer signed Senate/topics/senate/) Bill 1237 after the Legislature stripped a major component that would have allowed the Arizona Department of Education to give all students in the program extra funding that is meant for students who leave charter schools.

The Arizona Empowerment Scholarship Accounts program was created in 2011, and it was expanded last year. Another major expansion failed this year, but two smaller ones were signed into law this year.

Senate/topics/senate/) Bill 1237, signed Wednesday, allows parents of special-needs children enrolled in the program to get verification from an independent contractor that would allow them to receive extra funding, instead of going through the school district the child previously attended.

Another bill signed Wednesday aims to make it easier to prosecute people who help someone commit suicide. House Bill 2565 defines assisting in suicide as providing the physical means used to commit suicide, such as a gun. The proposal was prompted by a difficult prosecution stemming from a 2007 assisted suicide in Maricopa County.
Terminal Uncertainty

Washington’s new “Death With Dignity” law allows doctors to help people commit suicide—once they’ve determined that the patient has only six months to live. But what if they’re wrong?

By Nina Shapiro

published: January 14, 2009

She noticed the back pain first. Driving to the grocery store, Maryanne Clayton would have to pull over to the side of the road in tears. Then 62, a retired computer technician, she went to see a doctor in the Tri-Cities, where she lived. The diagnosis was grim. She already had Stage IV lung cancer, the most advanced form there is. Her tumor had metastasized up her spine. The doctor gave Clayton two to four months to live.

That was almost four years ago.

Prodded by a son who lives in Seattle, Clayton sought treatment from Dr. Renato Martins, a lung cancer specialist at Fred Hutchinson Cancer Research Center. Too weak to endure the toxicity of chemotherapy, she started with radiation, which at first made her even weaker but eventually built her strength. Given dodgy prospects with the standard treatments, Clayton then decided to participate in the clinical trial of a new drug called pemetrexate.

Her response was remarkable. The tumors shrunk, and although they eventually grew back, they shrunk again when she enrolled in a second clinical trial. (Pemetrexate has since been approved by the FDA for initial treatment in lung cancer cases.) She now comes to the Hutch every three weeks to see Martins, get CT scans, and undergo her drug regimen. The prognosis she was given has proved to be “quite wrong.”

"I just kept going and going,” says Clayton. "You kind of don’t notice how long it's been." She is a plain-spoken woman with a raspy voice, a pink face, and grayish-brown hair that fell out during treatment but grew back newly lustrous. "I had to have cancer to have nice hair," she deadpans, putting a hand to her short tresses as she sits, one day last month, in a Fred Hutchinson waiting room. Since the day she was given two to four months to live, Clayton has gone with her children on a series of vacations, including a cruise to the Caribbean, a trip to

http://www.seattleweekly.com/content/printVersion/553991/
Hawaii, and a tour of the Southwest that culminated in a visit to the Grand Canyon. There she rode a hot-air balloon that hit a snag as it descended and tipped over, sending everybody crawling out.

"We almost lost her because she was having too much fun, not from cancer," Martins chuckles.

Her experience underscores the difficulty doctors have in forecasting how long patients have to live—a difficulty that is about to become even more pertinent as the Washington Death With Dignity Act takes effect March 4. The law, passed by initiative last November and modeled closely on a 14-year-old law in Oregon, makes Washington the only other state in the country to allow terminally ill patients to obtain lethal medication. As in Oregon, the law is tightly linked to a prognosis: Two doctors must say a patient has six months or less to live before such medication can be prescribed.

The law has deeply divided doctors, with some loath to help patients end their lives and others asserting it’s the most humane thing to do. But there’s one thing many on both sides can agree on. Dr. Stuart Farber, head of palliative care at the University of Washington Medical Center, puts it this way: "Our ability to predict what will happen to you in the next six months sucks."

In one sense, six months is an arbitrary figure. "Why not four months? Why not eight months?” asks Arthur Caplan, director of the Center for Bioethics at the University of Pennsylvania, adding that medical literature does not define the term "terminally ill.” The federal Medicare program, however, has determined that it will pay for hospice care for patients with a prognosis of six months or less. "That's why we chose six months,” explains George Eighmy, executive director of Compassion & Choices of Oregon, the group that led the advocacy for the nation's first physician-assisted suicide law. He points out that doctors are already used to making that determination.

To do so, doctors fill out a detailed checklist derived from Medicare guidelines that are intended to ensure that patients truly are at death's door, and that the federal government won’t be shelling out for hospice care indefinitely. The checklist covers a patient’s ability to speak, walk, and smile, in addition to technical criteria specific to a person's medical condition, such as distant metastases in the case of cancer or a "CD4 count" of less than 25 cells in the case of AIDS.

No such detailed checklist is likely to be required for patients looking to end their lives in Washington, however. The state Department of Health, currently drafting regulations to comply with the new law, has released a preliminary version of the form that will go to doctors. Virtually identical to the one used in Oregon, it simply asks doctors to check a box indicating they have determined that "the patient has six months or less to live" without any additional questions about how that determination was made.

Even when applying the rigid criteria for hospice eligibility, doctors often get it wrong, according to Nicholas Christakis, a professor of medicine and sociology at Harvard University and a pioneer in research on this subject. As a child, his mother was diagnosed with Hodgkin's disease. "When I was six, she was given a 10 percent chance of living beyond three weeks," he writes in his 2000 book, Death Foretold: Prophecy and Prognosis in Medical Care. "She lived for nineteen remarkable years...I spent my boyhood always fearing that her lifelong chemotherapy would stop working, constantly wondering whether my mother would live or die, and both craving and detesting prognostic precision."

Sadly, Christakis' research has shown that his mother was an exception. In 2000, Christakis published a study in the British Medical Journal that followed 500 patients admitted to hospice programs in Chicago. He found that only 20 percent of the patients died approximately when their doctors had predicted. Unfortunately, most died sooner. "By and large, the physicians were overly optimistic," says Christakis.
In the world of hospice care, this finding is disturbing because it indicates that many patients aren’t being referred early enough to take full advantage of services that might ease their final months. "That’s what has frustrated hospices for decades," says Wayne McCormick, medical director of Providence Hospice of Seattle, explaining that hospice staff frequently don’t get enough time with patients to do their best work.

Death With Dignity advocates, however, point to this finding to allay concerns that people might be killing themselves too soon based on an erroneous six-month prognosis. "Of course, there is the occasional person who outlives his or her prognosis," says Robb Miller, executive director of Compassion & Choices of Washington. Actually, 17 percent of patients did so in the Christakis study. This roughly coincides with data collected by the National Hospice and Palliative Care Organization, which in 2007 showed that 13 percent of hospice patients around the country outlived their six-month prognoses.

It's not that prognostication is completely lacking in a scientific basis. There is a reason that you can pick up a textbook and find a life expectancy associated with most medical conditions: Studies have followed populations of people with these conditions. It's a statistical average. To be precise, it's a median, explains Martins. "That means 50 percent will do worse and 50 percent will do better."

Doctors also shade their prognoses according to their own biases and desires. Christakis' study found that the longer a doctor knew a patient, the more likely their prognosis was inaccurate, suggesting that doctors who get attached to their patients are reluctant to talk of their imminent demise. What's more, Christakis says, doctors see death "as a mark of failure."

Oncologists in particular tend to adopt a cheerleading attitude "right up to the end," says Brian Wicks, an orthopedic surgeon and past president of the Washington State Medical Association. Rather than talk about death, he says, their attitude is "Hey, one more round of chemo!"

But it is also true that one more round of chemo, or new drugs like the one that helped Clayton, or sometimes even just leaving patients alone, can help them in ways that are impossible to predict. J. Randall Curtis, a pulmonary disease specialist and director of an end-of-life research program at Harborview Medical Center, recalls treating an older man with severe emphysema a couple of years ago. "I didn't think I could get him off life support," Curtis says. The man was on a ventilator. Every day Randall tested whether the patient could breathe on his own, and every day the patient failed the test. He had previously made it clear that he did not want to be kept alive by machines, according to Curtis, and so the doctor and the man's family made the wrenching decision to pull the plug.

But instead of dying as expected, the man slowly began to get better. Curtis doesn't know exactly why, but guesses that for that patient, "being off the ventilator was probably better than being on it. He was more comfortable, less stressed." Curtis says the man lived for at least a year afterwards.

Curtis also once kept a patient on life support against his better judgment because her family insisted. "I thought she would live days to weeks," he says of the woman, who was suffering from septic shock and multiple organ failure. Instead she improved enough to eventually leave the hospital and come back for a visit some six or eight months later.

"It was humbling," he says. "It was not amazing. That's the kind of thing in medicine that happens frequently."

Every morning when Heidi Mayer wakes up, at 5 a.m. as is her habit, she says "Howdy" to her husband Bud—very loudly. "If he says 'Howdy' back, I know he's OK," she explains.
"There's always a little triumph," Bud chimes in. "I made it for another day."

It's been like this for years. A decade ago, after clearing a jungle of blackberries off a lot he had bought adjacent to his secluded ranch house south of Tacoma, Bud came down with a case of pneumonia. "Well, no wonder he's so sick," Heidi recalls the chief of medicine saying at the hospital where he was brought. "He's in congestive heart failure."

Then 75, "he became old almost overnight," Heidi says. Still, Bud was put on medications that kept him going—long enough to have a stroke five years later, kidney failure the year after that, and then the onset of severe chest pain known as angina. "It was scary," says Heidi, who found herself struggling at 3 a.m. to find Bud's veins so she could inject the morphine that the doctor had given Bud for the pain. Heidi is a petite blond nurse with a raucous laugh. She's 20 years younger than her husband, whom she met at a military hospital, and shares his cigar-smoking habit. Bud was a high-flying psychiatrist in the '80s when he became the U.S. Assistant Secretary of Defense, responsible for all Armed Forces health activities.

After his onslaught of illnesses, Bud says, his own prognosis for himself was grim. "Looking at a patient who had what I had, I would have been absolutely convinced that my chance of surviving more than a few months was very slim indeed."

Bud's doctor eventually agreed, referring him to hospice with a prognosis of six months. That was a year and a half ago. Bud, who receives visits from hospice staff at home, has since not gotten much worse or much better. Although he has trouble walking and freely speaks of himself as "dying," he looks like any elderly grandfather, sitting in a living room decorated with mounted animal heads, stuffing tobacco into his pipe and chatting about his renewed love of nature and the letter he plans to write to Barack Obama with his ideas for improving medical care. Despite his ill health, he says the past few years have been a wonderful, peaceful period for him—one that physician-assisted suicide, which he opposes, would have cut short.

A year after he first began getting visits from the Franciscan Hospice, the organization sent Dr. Bruce Brazina to Mayer's home to certify that he was still really dying. It's something Brazina says he does two to four times a week as patients outlive their six-month prognoses. Sometimes, Brazina says, patients have improved so much he can no longer forecast their imminent death. In those cases, "we take them off service"—a polite way of saying that patients are kicked off hospice care, a standard procedure at all hospices due to Medicare rules. But Brazina found that Mayer's heart condition was still severe enough to warrant another six-month prognosis, which the retired doctor has just about outlived again.

"It's getting to the point where I'm a little embarrassed," Mayer says.

What's going on with him is a little different than what happened to Randall Curtis' patients or to Maryanne Clayton. Rather than reviving from near death or surviving a disease that normally kills quickly, Mayer is suffering from chronic diseases that typically follow an unpredictable course. "People can be very sick but go along fine and stable," Brazina explains. "But then they'll have an acute attack." The problem for prognosis is that doctors have no way of knowing when those attacks will be or whether patients will be able to survive them.

When a group of researchers looked specifically at patients with three chronic conditions—pulmonary disease, heart failure, and severe liver disease—they found that many more people outlived their prognosis than in the Christakis study. Fully 70 percent of the 900 patients eligible for hospice care lived longer than six months, according to a 1999 paper published in the Journal of the American Medical Association.
Given these two studies, it's no surprise that in Oregon some people who got a prescription for lethal medication on the basis of a six-month prognosis have lived longer. Of the 341 people who put themselves to death as of 2007 (the latest statistics available), 17 did so between six months and two years after getting their prescription, according to state epidemiologist Katrina Hedberg. Of course, there's no telling how long any of the 341 would have lived had they not killed themselves. The Department of Health does not record how long people have lived after getting prescriptions they do not use, so there's no telling, either, whether those 200 people outlived their prognosis. Compassion & Choices of Oregon, which independently keeps data on the people whom it helps navigate the law, says some have lived as long as eight years after first inquiring about the process (although it doesn't track whether they ever received the medication and a six-month prognosis).

The medical field's spotty track record with prognosis is one reason Harborview's Curtis says he is not comfortable participating in physician-assisted suicide. It's one thing to make a six-month prognosis that will allow patients access to hospice services, he says, and quite another to do so for the purpose of enabling patients to kill themselves. "The consequences of being wrong are pretty different," he says.

Under the law, doctors and institutions are free to opt out, and several Catholic institutions like Providence Hospice of Seattle have already said they will do so. Medical director McCormick finds the idea of patients killing themselves particularly troubling because "you can't predict what's going to happen or who's going to show up near the end of your life." He says he has watched people make peace with loved ones or form wonderful new connections. He's preparing a speech in case patients ask about the new law: "I will stop at nothing to ensure that you're comfortable. I won't shorten your life, but I will make it as high-quality as possible."

Thomas Preston, a retired cardiologist who serves as medical director of Compassion & Choices of Washington, says he has in mind a different kind of speech: "You have to understand that this prognosis could be wrong. You may have more than six months to live. You may be cutting off some useful life."

He also says he will advise doctors to be more conservative than the law allows. "If you think it's going to be six months, hold off on it [writing a prescription]—just to be sure." Instead, he'll suggest that doctors wait until they think a patient has only one or two months to live.

The UW's Farber leans toward a different approach. While he says he hasn't yet decided whether he himself will write fatal prescriptions, he plans at least to refer patients to others who will. Given that prognostic precision is impossible, he says, "I personally just let go of the six months." Instead, he says he would try to meet what he sees as the "spirit of the law" by assessing that someone is "near" the end of their life, so that he could say to them, "You're really sick and you're not going to get better."

Knowing exactly when someone is going to die, he continues, is not as important as knowing when someone "has reached the point where their life is filled with so much suffering that they don't want to be alive."

**Randy Niedzielski** reached that point in the summer of 2006, according to his wife Nancy. Diagnosed with brain cancer in 2000, the onetime Lynnwood property manager had been through several rounds of chemotherapy and had lived years longer than the norm. But the cancer cells had come back in an even more virulent form and had spread to his muscle system. "He would have these bizarre muscle contractions," Nancy recalls. "His feet would go into a cone shape. His arms would twist in weird angles." Or his chest would of its own volition go into what Nancy calls a "tent position," rising up from his arms. "He'd just be screaming in pain."
Randy would have liked to move to Oregon to take advantage of the Death With Dignity Act there, according to Nancy. But he didn't have time to establish residency as required. That was about six weeks before his death.

Nancy, who has become an advocate for physician-assisted suicide, says that typically people are only weeks or days away from death when they want to kill themselves. Oregon's experience with people hanging onto their medicine for so long, rather than rushing to use it as soon as they get a six-month prognosis, bears this out, she says: "A patient will know when he's at the very end of his life. Doctors don't need to tell you."

Sometimes, though, patients are not so near the end of their life when they're ready to die. University of Washington bioethics professor Helene Starks and Anthony Back, director of palliative care at the Seattle Cancer Care Alliance, are two of several researchers who in 2005 published a study that looked at 26 patients who "hastened" their death. A few were in Oregon, but most were in Washington, and they brought about their own demise mostly either by refusing to eat or drink or by obtaining medication illegally, according to Back and Starks. Three of these patients had "well over six months" of remaining life, Starks says, perhaps even years.

The paper, published in the Journal of Pain and Symptom Management, quotes from an interview with one of these patients before she took her life. Suffering from a congenital malformation of the spine, she said it had reached the point that her spine or neck could be injured even while sitting. "I'm in an invisible prison," she continued. "Every move I make is an effort. I can't live like this because of the constant stress, unbearable pain, and the knowledge that it will never be any better."

Under the law, she would not be eligible for lethal medication. Her case was not considered "terminal," according to the paper. But for patients like her, the present is still unbearable. Former governor Booth Gardner, the state's most visible champion of physician-assisted suicide, would have preferred a law that applied to everyone who viewed their suffering this way, regardless of how long they were expected to live. He told The New York Times Magazine, for a December 2007 story, that the six-month rule was a compromise meant to help insure the passage of Initiative 1000. Gardner has Parkinson's disease, and now can talk only haltingly by phone. In an interview he explained that he has been housebound of late due to several accidents related to his lack of balance.

Researchers who have interviewed patients, their families, and their doctors have found, however, that pain is not the central issue. Fear of future suffering looms larger, as does people's desire to control their own end.

"It comes down to more existential issues," says Back. For his study of Washington and Oregon patients, he interviewed one woman who had been a successful business owner. "That's what gave her her zest for life," Back says, and without it she was ready to die.

Maryanne Clayton says she has never reached that point. Still, she voted for the Death With Dignity Act. "Why force me to suffer?" she asks, adding that if she were today in as much pain as she was when first diagnosed with lung cancer, she might consider taking advantage of the new law. But for now, she still enjoys life. Her 35-year-old son Eric shares a duplex with her in the Tri-Cities. They like different food. But every night he cooks dinner on his side, she cooks dinner on her side, and they eat together. And one more day passes that proves her prognosis wrong.

nshapiro@seattleweekly.com

http://www.seattleweekly.com/content/printVersion/553991/
AFFIDAVIT OF JOHN NORTON IN OPPOSITION TO
ASSISTED SUICIDE AND EUTHANASIA

THE UNDERSIGNED, being first duly sworn on oath, STATES:

1. I live in Florence Massachusetts USA. When I was eighteen years old and in my first year of college, I was diagnosed with Amyotrophic Lateral Sclerosis (ALS) by the University of Iowa Medical School. ALS is commonly referred to as Lou Gehrig's disease. I was told that I would get progressively worse (be paralyzed) and die in three to five years.

2. I was a very physical person. The diagnosis was devastating to me. I had played football in high school and was extremely active riding bicycles. I also performed heavy labor including road construction and farm work. I prided myself for my physical strength, especially in my hands.

3. The ALS diagnosis was confirmed by the Mayo Clinic in Rochester Minnesota. I was eighteen or nineteen years old at the
time. By then, I had twitching in both hands, which were also getting weaker. At some point, I lost the ability to grip in my hands. I became depressed and was treated for my depression. If instead, I had been told that my depression was rational and that I should take an easy way out with a doctor's prescription and support, I would have taken that opportunity.

4. Six years after my initial diagnosis, the disease progression stopped. Today, my condition is about the same. I still can't grip with my hands. Sometimes I need special help. But, I have a wonderful life. I am married to Susan. We have three children and one grandchild. I have a degree in Psychology and one year of graduate school. I am a retired bus driver (no gripping required). Prior to driving bus, I worked as a parole and probation officer. When I was much younger, I drove a school bus. We have wonderful friends. I enjoy singing tenor in amateur choruses. I help other people by working as a volunteer driver.

5. I will be 75 years old this coming September. If assisted suicide or euthanasia had been available to me in the 1950's, I would have missed the bulk of my life and my life yet to come. I hope that Canada does not legalize these practices.
SWORN BEFORE ME at MASSACHUSETTS, USA on, August 16th, 2012

NAME: Heidi Przybylski
A notary in and for the State of Washington MASSACHUSETTS

ADDRESS: 35 Main St
Florence MA 01062

EXPIRY OF COMMISSION: June 22, 2018

PLACE SEAL HERE:

AFFIDAVIT OF JOHN NORTON- Page 3
THE UNDERSIGNED, being first duly sworn under oath, states:

1. I live in Oregon where physician-assisted suicide is legal. Our law was enacted in 1997 via a ballot initiative that I voted for.

2. In 2000, I was diagnosed with cancer and told that I had 6 months to a year to live. I knew that our law had passed, but I didn’t know exactly how to go about doing it. I tried to ask my doctor, Ken Stevens MD, but he didn’t really answer me. In hindsight, he was stalling me.

3. I did not want to suffer. I wanted to do our law and I wanted Dr. Stevens to help me. Instead, he encouraged me to not give up and ultimately I decided to fight the cancer. I had both chemotherapy and radiation. I am so happy to be alive!
4. This July, it was 12 years since my diagnosis. If Dr. Stevens had believed in assisted suicide, I would be dead. Assisted suicide should not be legal.

Dated this 17th day of August 2012

Jeanette Hall

SWORN BEFORE ME at 
OREGON, USA 
on, August 17, 2012

NAME: Jeanette Hall

A notary in and for the State of Oregon

ADDRESS: 15405 SW William Ave, Beaverton, OR 97007

EXPIRY OF COMMISSION: September 29, 2015

PLACE SEAL HERE:

OFFICIAL SEAL
SHEENA MARIE LESLIE 
NOTARY PUBLIC - OREGON 
COMMISSION NO. 402203 
MY COMMISSION EXPIRES SEPTEMBER 29, 2015
AFFIDAVIT OF KENNETH R. STEVENS, JR., MD

THE UNDERSIGNED, being duly sworn under oath, states:

1. I am a doctor in Oregon USA where physician-assisted suicide is legal. I am also a Professor Emeritus and a former Chair of the Department of Radiation Oncology, Oregon Health & Science University, Portland, Oregon. I have treated thousands of patients with cancer.

2. In Oregon, our assisted suicide law applies to patients predicted to have less than six months to live. I write to clarify for the court that this does not necessarily mean that patients are dying.

3. In 2000, I had a cancer patient named Jeanette Hall. Another doctor had given her a terminal diagnosis of six months to a year to live, which was based on her not being treated for cancer. I understand that he had referred her to me.
4. At our first meeting, Jeanette told me plainly that she did not want to be treated and that was going to "do" our law, i.e., kill herself with a lethal dose of barbiturates. It was very much a settled decision.

5. I, personally, did not and do not believe in assisted suicide. I also believed that her cancer was treatable and that her prospects were good. She was not, however, interested in treatment. She had made up her mind, but she continued to see me.

6. On the third or fourth visit, I asked her about her family and learned that she had a son. I asked her how he would feel if she went through with her plan. Shortly after that, she agreed to be treated and she is still alive today. Indeed, she is thrilled to be alive. It's been twelve years.

7. For Jeanette, the mere presence of legal assisted suicide had steered her to suicide.

8. Today, for patients under the Oregon Health Plan (Medicaid), there is also a financial incentive to commit suicide: The Plan covers the cost. The Plan's "Statements of Intent for the April 1, 2012 Prioritized List of Health Services," states:

   It is the intent of the [Oregon Health Services] Commission that services under ORS 127.800-127.897 (Oregon Death with Dignity Act) be covered for those that wish to avail themselves to those services.

Attached hereto at page SI-1.

Affidavit of Kenneth Stevens, Jr., MD - page 2
9. Under the Oregon Health Plan, there is also a financial incentive towards suicide because the Plan will not necessarily pay for a patient’s treatment. For example, patients with cancer are denied treatment if they have a “less than 24 months median survival with treatment” and fit other criteria. This is the Plan’s “Guideline Note 12.” (Attached hereto at page GN-4).

10. The term, “less than 24 months median survival with treatment,” means that statistically half the patients receiving treatment will live less than 24 months (two years) and the other half will live longer than two years.

11. Some of the patients living longer than two years will likely live far longer than two years, as much as five, ten or twenty years depending on the type of cancer. This is because there are always some people who beat the odds.

12. All such persons who fit within “Guideline Note 12” will nonetheless be denied treatment. Their suicides under Oregon’s assisted suicide act will be covered.

13. I also write to clarify a difference between physician-assisted suicide and end-of-life palliative care in which dying patients receive medication for the intended purpose of relieving pain, which may incidentally hasten death. This is the principle of double effect. This is not physician-assisted suicide in which death is intended for patients who may or may not be dying anytime soon.
14. The Oregon Health Plan is a government health plan administered by the State of Oregon. If assisted suicide is legalized in Canada, your government health plan could follow a similar pattern. If so, the plan will pay for a patient to die, but not to live.

SWORN BEFORE ME at Sherwood
Oregon, USA
on September 18, 2012

NAME: Jessica Borgo

A notary in and for the
State of Oregon

ADDRESS: 16100 SW Tualatin - Sherwood Rd

EXPIRY OF COMMISSION: Aug 30, 2015

PLACE SEAL HERE:

OFFICIAL SEAL
JESSICA R BORG0
NOTARY PUBLIC - OREGON
COMMISSION NO. 461438
MY COMMISSION EXPIRES AUGUST 30, 2015

Affidavit of Kenneth Stevens, Jr., MD - page 4
F:\ASE files\Leblanc\Kenneth Stevens MD Affidavit.wpd
STATEMENTS OF INTENT FOR THE APRIL 1, 2012 PRIORITIZED LIST OF HEALTH SERVICES

STATEMENT OF INTENT 1: PALLIATIVE CARE

It is the intent of the Commission that palliative care services be covered for patients with a life-threatening illness or severe advanced illness expected to progress toward dying, regardless of the goals for medical treatment and with services available according to the patient's expected length of life (see examples below).

Palliative care is comprehensive, specialized care ideally provided by an interdisciplinary team (which may include but is not limited to physicians, nurses, social workers, etc.) where care is particularly focused on alleviating suffering and promoting quality of life. Such interdisciplinary care should include assessment, care planning, and care coordination, emotional and psychosocial counseling for patients and families, assistance accessing services from other needed community resources, and should reflect the patient and family's values and goals.

Some examples of palliative care services that should be available to patients with a life-threatening/limiting illness,

A) without regard to a patient's expected length of life:
   - Inpatient palliative care consultation; and,
   - Outpatient palliative care consultation, office visits.
B) with an expected median survival of less than one year, as supported by the best available published evidence:
   - Inpatient palliative care services (to be defined by DMAP), with the expectation that the patient will move to home hospice care.
C) with an expected median survival of six months or less, as supported by peer-reviewed literature:
   - Home hospice care, where the primary goal of care is quality of life (hospice services to be defined by DMAP).

It is the intent of the Commission that certain palliative care treatments be covered when these treatments carry the primary goal to alleviate symptoms and improve quality of life, without intending to alter the trajectory of the underlying disease.

Some examples of covered palliative care treatments include:

A) Radiation therapy for painful bone metastases with the intent to relieve pain and improve quality of life.
B) Surgical decompression for malignant bowel obstruction.
C) Medication therapy such as chemotherapy with low toxicity/low side effect agents with the goal to decrease pain from bulky disease or other identified complications. Cost of chemotherapy and alternative medication(s) should also be considered.
D) Medical equipment and supplies (such as non-motorized wheelchairs, walkers, bandages, and catheters) determined to be medically appropriate for completion of basic activities of daily living, for management of symptomatic complications or as required for symptom control.
E) Acupuncture with intent to relieve nausea.

Cancer treatment with intent to palliate is not a covered service when the same palliation can be achieved with pain medications or other non-chemotherapy agents.

It is NOT the intent of the Commission that coverage for palliative care encompasses those treatments that seek to prolong life despite substantial burdens of treatment and limited chance of benefit. See Guideline Note 12: TREATMENT OF CANCER WITH LITTLE OR NO BENEFIT PROVIDED NEAR THE END OF LIFE.

STATEMENT OF INTENT 2: DEATH WITH DIGNITY ACT

It is the intent of the Commission that services under ORS 127.800-127.897 (Oregon Death with Dignity Act) be covered for those that wish to avail themselves to those services. Such services include but are not limited to attending physician visits, consulting physician confirmation, mental health evaluation and counseling, and prescription medications.

STATEMENT OF INTENT 3: INTEGRATED CARE

Recognizing that many individuals with mental health disorders receive care predominantly from mental health care providers, and recognizing that integrating mental and physical health services for such individuals promotes patient-centered care, the Health Evidence Review Commission endorses the incorporation of chronic disease health management support within mental health service systems. Although such supports are not part of the mental health benefit package, mental health organizations (MHOs) that elect to provide these services may report them using psychiatric rehabilitation codes which pair with mental health diagnoses. If MHOs choose to provide tobacco cessation supports, they should report these services using 99407 for Individual counseling and S9453 for classes.

4-16-2012
GUIDELINE NOTE 9, WIRELESS CAPSULE ENDOSCOPY (CONT'D)

b) Suspected Crohn’s disease: upper and lower endoscopy, small bowel follow through

2) Radiological evidence of lack of stricture

3) Only covered once during any episode of illness

4) FDA approved devices must be used

5) Patency capsule should not be used prior to procedure

GUIDELINE NOTE 10, CENTRAL SEROUS RETINOPATHY AND PARS PLANITIS

Line 413

Central serous retinopathy (362.41) is included on this line only for treatment when the condition has been present for 3 months or longer. Pars planitis (363.21) should only be treated in patients with 20/40 or worse vision.

GUIDELINE NOTE 11, COLONY STIMULATING FACTOR (CSF) GUIDELINES


A) CSF are not indicated for primary prophylaxis of febrile neutropenia unless the primary chemotherapeutic regimen is known to produce febrile neutropenia at least 20% of the time. CSF should be considered when the primary chemotherapeutic regimen is known to produce febrile neutropenia 10-20% of the time; however, if the risk is due to the chemotherapy regimen, other alternatives such as the use of less myelosuppressive chemotherapy or dose reduction should be explored in this situation.

B) For secondary prophylaxis, dose reduction should be considered the primary therapeutic option after an episode of severe or febrile neutropenia except in the setting of curable tumors (e.g., germ cell), as no disease free or overall survival benefits have been documented using dose maintenance and CSF.

C) CSF are not indicated in patients who are acutely neutropenic but afebrile.

D) CSF are not indicated in the treatment of febrile neutropenia except in patients who received prophylactic filgrastim or sargramostim or in high risk patients who did not receive prophylactic CSF. High risk patients include those age >65 years or with sepsis, severe neutropenia with absolute neutrophil count <100/mcl, neutropenia expected to be more than 10 days in duration, pneumonia, invasive fungal infection, other clinically documented infections, hospitalization at time of fever, or prior episode of febrile neutropenia.

E) CSF are not indicated to increase chemotherapy dose-intensity or schedule, except in cases where improved outcome from such increased intensity has been documented in a clinical trial.

F) CSF (other than pegfilgrastim) are indicated in the setting of autologous progenitor cell transplantation, to mobilize peripheral blood progenitor cells, and after their infusion.

G) CSF are NOT indicated in patients receiving concomitant chemotherapy and radiation therapy.

H) There is no evidence of clinical benefit in the routine, continuous use of CSF in myelodysplastic syndromes. CSF may be indicated for some patients with severe neutropenia and recurrent infections, but should be used only if significant response is documented.

i) CSF is indicated for treatment of cyclic, congenital and idiopathic neutropenia.

GUIDELINE NOTE 12, TREATMENT OF CANCER WITH LITTLE OR NO BENEFIT PROVIDED NEAR THE END OF LIFE


This guideline only applies to patients with advanced cancer who have less than 24 months median survival with treatment.

All patients receiving end of life care, either with the intent to prolong survival or with the intent to palliate symptoms, should have/be engaged with palliative care providers (for example, have a palliative care consult or be enrolled in a palliative care program).

Treatment with intent to prolong survival is not a covered service for patients with any of the following:

- Median survival of less than 6 months with or without treatment, as supported by the best available published evidence
- Median survival with treatment of 6-12 months when the treatment is expected to improve median survival by less than 50%, as supported by the best available published evidence
- Median survival with treatment of more than 12 months when the treatment is expected to improve median survival by less than 30%, as supported by the best available published evidence
- Poor prognosis with treatment, due to limited physical reserve or the ability to withstand treatment regimen, as indicated by low performance status.

Unpublished evidence may be taken into consideration in the case of rare cancers which are universally fatal within six months without treatment.

The Health Evidence Review Commission is reluctant to place a strict $/QALY (quality adjusted life-year) or $/LYS (life-year saved) requirement on end-of-life treatments, as such measurements are only approximations and cannot take into account all of the merits of an individual case. However, cost must be taken into consideration when considering treatment options near the end of life. For example, in no instance can it be justified to spend $100,000 in public resources to increase an individual’s expected survival by three months when hundreds of thousands of Oregonians are without any form of health insurance.

4-16-2012
GUIDELINE NOTE 12, TREATMENT OF CANCER WITH LITTLE OR NO BENEFIT PROVIDED NEAR THE END OF LIFE (CONT'D)

Treatment with the goal to palliate is addressed in Statement of Intent 1, Palliative Care.

GUIDELINE NOTE 13, MINIMALLY INVASIVE CORONARY ARTERY BYPASS SURGERY

Lines 76, 195

Minimally invasive coronary artery bypass surgery indicated only for single vessel disease.

GUIDELINE NOTE 14, SECOND BONE MARROW TRANSPLANTS

Lines 79, 103, 105, 125, 131, 166, 170, 198, 206, 231, 280, 314

Second bone marrow transplants are not covered except for tandem autologous transplants for multiple myeloma.

GUIDELINE NOTE 15, HETEROTOPIC BONE FORMATION

Lines 89, 384

Radiation treatment is indicated only in those at high risk of heterotopic bone formation: those with a history of prior heterotopic bone formation, ankylosing spondylitis or hypertrophic osteoarthritis.

GUIDELINE NOTE 16, CYSTIC FIBROSIS CARRIER SCREENING

Lines 1, 3, 4

Cystic fibrosis carrier testing is covered for 1) non-pregnant adults if indicated in the genetic testing algorithm or 2) pregnant women.

GUIDELINE NOTE 17, PREVENTIVE DENTAL CARE

Line 58

Dental cleaning and fluoride treatments are limited to once per 12 months for adults and twice per 12 months for children up to age 19 (D1110, D1120, D1203, D1204, D1206). More frequent dental cleanings and/or fluoride treatments may be required for certain higher risk populations.

GUIDELINE NOTE 18, VENTRICULAR ASSIST DEVICES

Lines 108, 279

Ventricular assist devices are covered only in the following circumstances:

A) as a bridge to cardiac transplant;
B) as treatment for pulmonary hypertension when pulmonary hypertension is the only contraindication to cardiac transplant and the anticipated outcome is cardiac transplant; or,
C) as a bridge to recovery.

Ventricular assist devices are not covered for destination therapy.

Ventricular assist devices are covered for cardiomyopathy only when the intention is bridge to cardiac transplant.

GUIDELINE NOTE 19, PET SCAN GUIDELINES

Lines 125, 144, 165, 166, 170, 182, 207, 208, 220, 221, 243, 276, 278, 292, 312, 339

PET Scans are covered for diagnosis of the following cancers only:
- Solitary pulmonary nodules and non-small cell lung cancer
- Evaluation of cervical lymph node metastases when CT or MRI do not demonstrate an obvious primary tumor,

For diagnosis, PET is covered only when it will avoid an invasive diagnostic procedure, or will assist in determining the optimal anatomic location to perform an invasive diagnostic procedure.

PET scans are covered for the initial staging of the following cancers:
- Cervical cancer only when initial MRI or CT is negative for extra-pelvic metastasis
- Head and neck cancer when initial MRI or CT is equivocal
Oregon’s Death with Dignity Act--2013

Oregon’s Death with Dignity Act (DWDA), enacted in late 1997, allows terminally-ill adult Oregonians to obtain and use prescriptions from their physicians for self-administered, lethal doses of medications. The Oregon Public Health Division is required by the Act to collect information on compliance and to issue an annual report. The key findings from 2013 are listed below. The number of people for whom DWDA prescriptions were written (DWDA prescription recipients) and deaths that occurred as a result of ingesting prescribed DWDA medications (DWDA deaths) reported in this summary are based on paperwork and death certificates received by the Oregon Public Health Division as of January 22, 2014. For more detail, please view the figures and tables on our web site: http://www.healthoregon.org/dwd.

Figure 1:
Oregon DWDA Prescription Recipients and Deaths*, 1998-2013

*As of January 22, 2014
As of January 22, 2014, prescriptions for lethal medications were written for 122 people during 2013 under the provisions of the DWDA, compared to 116 during 2012 (Figure 1). At the time of this report, there were 71 known DWDA deaths during 2013. This corresponds to 21.9 DWDA deaths per 10,000 total deaths.1

Since the law was passed in 1997, a total of 1,173 people have had DWDA prescriptions written and 752 patients have died from ingesting medications prescribed under the DWDA.

Of the 122 patients for whom DWDA prescriptions were written during 2013, 63 (51.6%) ingested and died from the medication. Eight (8) patients with prescriptions written during the previous years (2011 and 2012) died after ingesting the medication during 2013, for a total of 71 DWDA deaths.

Twenty-eight (28) of the 122 patients who received DWDA prescriptions during 2013 did not take the medications and subsequently died of other causes.

Ingestion status is unknown for 31 patients who were prescribed DWDA medications in 2013. Seven (7) of these patients died, but follow-up questionnaires indicating ingestion status have not yet been received. For the remaining 24 patients, both death and ingestion status are pending (Figure 2).

Of the 71 DWDA deaths during 2013, most (69.0%) were aged 65 years or older; the median age was 71 years (42 years – 96 years). As in previous years, most were white (94.4%), well-educated (53.5% had at least a baccalaureate degree), and had cancer (64.8%). In 2013, fewer patients had cancer (64.8%) compared to previous years (80.4%), and more patients had chronic lower respiratory disease (9.9%), and other underlying illnesses (16.9%).

Most (97.2%) DWDA patients died at home, and most (85.7%) were enrolled in hospice care either at the time the DWDA prescription was written or at the time of death. Excluding unknown cases, most (96.7%) had some form of

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1 The rate per 10,000 deaths is calculated using the total number of Oregon resident deaths in 2012 (32,475), the most recent year for which final death data are available.

health care insurance. The number of patients who had private insurance (43.5%) was lower in 2013 than in previous years (64.7%), and the number of patients who had only Medicare or Medicaid insurance was higher than in previous years (53.2% compared to 33.7%).

- As in previous years, the three most frequently mentioned end-of-life concerns were: loss of autonomy (93.0%), decreasing ability to participate in activities that made life enjoyable (88.7%), and loss of dignity (73.2%).

- Two of the 71 DWDA patients who died during 2013 were referred for formal psychiatric or psychological evaluation.

- Prescribing physicians were present at the time of death for eight patients (11.4%) during 2013 compared to 16.5% in previous years.

- A procedure revision was made mid-year in 2010 to standardize reporting on the follow-up questionnaire. The new procedure accepts information about the time of death and circumstances surrounding death only when the physician or another health care provider was present at the time of death. Due to this change, data on time from ingestion to death is available for 11 of the 71 DWDA deaths during 2013. Among those 11 patients, time from ingestion until death ranged from 5 minutes to 5.6 hours.

- Sixty-two (62) physicians wrote the 122 prescriptions provided during 2013 (range 1-10 prescriptions per physician).

- During 2013, no referrals were made to the Oregon Medical Board for failure to comply with DWDA requirements.
Figure 2: Summary of DWDA Prescriptions Written and Medications Ingested in 2013, as of January 22, 2014

122 people had prescriptions written during 2013
- 8 people with prescriptions written in previous years ingested medication during 2013
  - 71 ingested medication
    - 71 died from ingesting medication
  - 0 regained consciousness after ingesting medication; died of underlying illness
- 63 ingested medication
- 28 did not ingest medication and subsequently died from other causes
- 31 ingestion status unknown
  - 7 died, ingestion status is pending receipt of follow-up questionnaires
  - 24 death and ingestion status pending

Table 1. Characteristics and End-of-life Care of 752 DWDA Patients who Died from Ingesting a Lethal Dose of Medication as of January 17, 2014, Oregon, 1998-2013

<table>
<thead>
<tr>
<th>Characteristics</th>
<th>2013 (N=71)</th>
<th>1998-2012 (N=681)</th>
<th>Total (N=752)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sex</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male (%)</td>
<td>44 (62.0)</td>
<td>352 (51.7)</td>
<td>396 (52.7)</td>
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<tr>
<td>Female (%)</td>
<td>27 (38.0)</td>
<td>329 (48.3)</td>
<td>356 (47.3)</td>
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<tr>
<td><strong>Age</strong></td>
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<td></td>
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<tr>
<td>18-34 (%)</td>
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<td>6 (0.8)</td>
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<td>35-44 (%)</td>
<td>1 (1.4)</td>
<td>15 (2.2)</td>
<td>16 (2.1)</td>
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<td>45-54 (%)</td>
<td>6 (8.5)</td>
<td>52 (7.6)</td>
<td>58 (7.7)</td>
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<td>55-64 (%)</td>
<td>15 (21.1)</td>
<td>141 (20.7)</td>
<td>156 (20.7)</td>
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<td>65-74 (%)</td>
<td>23 (32.4)</td>
<td>194 (28.5)</td>
<td>217 (28.9)</td>
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<tr>
<td>75-84 (%)</td>
<td>17 (23.9)</td>
<td>189 (27.8)</td>
<td>206 (27.4)</td>
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<tr>
<td>85+ (%)</td>
<td>9 (12.7)</td>
<td>84 (12.3)</td>
<td>93 (12.4)</td>
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<td>Median years (range)</td>
<td>71 (42-96)</td>
<td>71 (25-96)</td>
<td>71 (25-96)</td>
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<tr>
<td><strong>Race</strong></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>White (%)</td>
<td>67 (94.4)</td>
<td>662 (97.6)</td>
<td>729 (97.3)</td>
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<tr>
<td>African American (%)</td>
<td>0 (0.0)</td>
<td>1 (0.1)</td>
<td>1 (0.1)</td>
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<tr>
<td>American Indian (%)</td>
<td>1 (1.4)</td>
<td>1 (0.1)</td>
<td>2 (0.3)</td>
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<tr>
<td>Asian (%)</td>
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<td>8 (1.1)</td>
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<td>Pacific Islander (%)</td>
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<td>1 (0.1)</td>
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<td>Other (%)</td>
<td>1 (1.4)</td>
<td>0 (0.0)</td>
<td>1 (0.1)</td>
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<td>Two or more races (%)</td>
<td>2 (2.8)</td>
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<td>Hispanic (%)</td>
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<td><strong>Marital Status</strong></td>
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<tr>
<td>Married (%)</td>
<td>36 (50.7)</td>
<td>310 (45.7)</td>
<td>346 (46.2)</td>
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<tr>
<td>Widowed (%)</td>
<td>13 (18.3)</td>
<td>158 (23.3)</td>
<td>171 (22.8)</td>
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<td>Never married (%)</td>
<td>8 (11.3)</td>
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<td>Divorced (%)</td>
<td>14 (19.7)</td>
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<td><strong>Education</strong></td>
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<td>Less than high school (%)</td>
<td>2 (2.8)</td>
<td>42 (6.2)</td>
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<tr>
<td>High school graduate (%)</td>
<td>10 (14.1)</td>
<td>154 (22.8)</td>
<td>164 (22.0)</td>
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<td>Some college (%)</td>
<td>21 (29.6)</td>
<td>177 (26.2)</td>
<td>198 (26.5)</td>
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<tr>
<td>Baccalaureate or higher (%)</td>
<td>38 (53.5)</td>
<td>303 (44.8)</td>
<td>341 (45.6)</td>
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<td><strong>Residence</strong></td>
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<td>Metro counties (%)</td>
<td>25 (35.2)</td>
<td>289 (42.6)</td>
<td>314 (41.9)</td>
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<td>Coastal counties (%)</td>
<td>5 (7.0)</td>
<td>51 (7.5)</td>
<td>56 (7.5)</td>
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<td>Other western counties (%)</td>
<td>33 (46.5)</td>
<td>292 (43.1)</td>
<td>325 (43.4)</td>
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<td>East of the Cascades (%)</td>
<td>8 (11.3)</td>
<td>46 (6.8)</td>
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<td><strong>End of life care</strong></td>
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<tr>
<td>Hospice</td>
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<tr>
<td>Enrolled (%)</td>
<td>60 (85.7)</td>
<td>593 (90.5)</td>
<td>653 (90.1)</td>
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<tr>
<td>Not enrolled (%)</td>
<td>10 (14.3)</td>
<td>62 (9.5)</td>
<td>72 (9.9)</td>
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<td>Unknown</td>
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<tr>
<td>Insurance</td>
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<tr>
<td>Private (%)</td>
<td>27 (43.5)</td>
<td>424 (64.7)</td>
<td>451 (62.9)</td>
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<tr>
<td>Medicare, Medicaid or Other Governmental (%)</td>
<td>33 (53.2)</td>
<td>221 (33.7)</td>
<td>254 (35.4)</td>
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<td>None (%)</td>
<td>2 (3.2)</td>
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<td>Unknown</td>
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### Underlying Illness

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<tr>
<th>Characteristics</th>
<th>2013 (N=71)</th>
<th>1998-2012 (N=681)</th>
<th>Total (N=752)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Malignant neoplasms (%)</td>
<td>46 (64.8)</td>
<td>545 (80.4)</td>
<td>591 (78.9)</td>
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<tr>
<td>Lung and bronchus (%)</td>
<td>10 (14.1)</td>
<td>129 (19.0)</td>
<td>139 (18.6)</td>
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<tr>
<td>Breast (%)</td>
<td>1 (1.4)</td>
<td>56 (8.3)</td>
<td>57 (7.6)</td>
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<tr>
<td>Colon (%)</td>
<td>6 (8.5)</td>
<td>43 (6.3)</td>
<td>49 (6.5)</td>
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<tr>
<td>Pancreas (%)</td>
<td>2 (2.8)</td>
<td>45 (6.6)</td>
<td>47 (6.3)</td>
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<tr>
<td>Prostate (%)</td>
<td>2 (2.8)</td>
<td>31 (4.6)</td>
<td>33 (4.4)</td>
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<tr>
<td>Ovary (%)</td>
<td>1 (1.4)</td>
<td>27 (4.0)</td>
<td>28 (3.7)</td>
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<tr>
<td>Other (%)</td>
<td>24 (33.8)</td>
<td>214 (31.6)</td>
<td>238 (31.8)</td>
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<td>Amyotrophic lateral sclerosis (%)</td>
<td>5 (7.0)</td>
<td>49 (7.2)</td>
<td>54 (7.2)</td>
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<td>Chronic lower respiratory disease (%)</td>
<td>7 (9.9)</td>
<td>27 (4.0)</td>
<td>34 (4.5)</td>
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<tr>
<td>Heart Disease (%)</td>
<td>1 (1.4)</td>
<td>13 (1.9)</td>
<td>14 (1.9)</td>
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<tr>
<td>HIV/AIDS (%)</td>
<td>0 (0.0)</td>
<td>9 (1.3)</td>
<td>9 (1.2)</td>
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<td>Other illnesses (%)</td>
<td>12 (16.9)</td>
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<td>47 (6.3)</td>
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### DWDA process

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<tbody>
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<td>Referred for psychiatric evaluation (%)</td>
<td>2 (2.8)</td>
<td>42 (6.2)</td>
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<tr>
<td>Patient informed of family decision (%)</td>
<td>62 (91.2)</td>
<td>570 (93.9)</td>
<td>632 (93.8)</td>
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<tr>
<td>Patient died at Home (patient, family or friend)</td>
<td>69 (97.2)</td>
<td>645 (95.1)</td>
<td>714 (95.3)</td>
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<tr>
<td>Long term care, assisted living or foster care facility (%)</td>
<td>2 (2.8)</td>
<td>27 (4.0)</td>
<td>29 (3.9)</td>
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<tr>
<td>Hospital (%)</td>
<td>0 (0.0)</td>
<td>1 (0.1)</td>
<td>1 (0.1)</td>
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<td>Other (%)</td>
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### End of life concerns

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</thead>
<tbody>
<tr>
<td>Losing autonomy (%)</td>
<td>66 (93.0)</td>
<td>618 (91.3)</td>
<td>684 (91.4)</td>
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<tr>
<td>Less able to engage in activities making life enjoyable (%)</td>
<td>63 (88.7)</td>
<td>602 (88.9)</td>
<td>665 (88.9)</td>
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<td>Loss of dignity (%)</td>
<td>52 (73.2)</td>
<td>452 (81.9)</td>
<td>504 (80.9)</td>
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<tr>
<td>Lossing control of bodily functions (%)</td>
<td>26 (36.6)</td>
<td>350 (51.7)</td>
<td>376 (50.3)</td>
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<tr>
<td>Burden on family, friends/caregivers (%)</td>
<td>35 (49.3)</td>
<td>264 (39.0)</td>
<td>299 (40.0)</td>
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<td>Inadequate pain control or concern about it (%)</td>
<td>20 (28.2)</td>
<td>157 (23.2)</td>
<td>177 (23.7)</td>
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<td>Financial implications of treatment (%)</td>
<td>4 (5.6)</td>
<td>18 (2.7)</td>
<td>22 (2.9)</td>
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### Health-care provider present

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<td>When medication was ingested</td>
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<tr>
<td>Prescribing physician</td>
<td>8</td>
<td>111</td>
<td>119</td>
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<tr>
<td>Other provider, prescribing physician not present</td>
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<td>235</td>
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<tr>
<td>No provider</td>
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### At time of death

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<td>Prescribing physician (%)</td>
<td>8 (11.4)</td>
<td>99 (16.5)</td>
<td>107 (16.0)</td>
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<td>Other provider, prescribing physician not present (%)</td>
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<td>258 (43.1)</td>
<td>263 (39.3)</td>
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<tr>
<td>No provider</td>
<td>57 (81.4)</td>
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### Complications

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<td>Regurgitated</td>
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<tr>
<td>Seizures</td>
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### Other outcomes

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<td>Regained consciousness after ingesting DWDA medications</td>
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<td>6</td>
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<td>Characteristics</td>
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<td><strong>Duration (weeks) of patient-physician relationship</strong></td>
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1. Unknowns are excluded when calculating percentages.
2. Includes Oregon Registered Domestic Partnerships.
4. Includes patients that were enrolled in hospice at the time the prescription was written or at time of death.
5. Private insurance category includes those with private insurance alone or in combination with other insurance.
6. Includes deaths due to benign and uncertain neoplasms, other respiratory diseases, diseases of the nervous system (including multiple sclerosis, Parkinson's and Huntington's diseases), musculoskeletal and connective tissue diseases, viral hepatitis, diabetes mellitus, cerebrovascular disease, and alcoholic liver disease.
7. First recorded beginning in 2001. Since then, 31 patients (4.6%) have chosen not to inform their families, and 12 patients (1.8%) have had no family to inform. There was one unknown case in 2002, two in 2005, one in 2009, and three in 2013.
8. Other includes combinations of secobarbital, pentobarbital, and/or morphine.
9. Affirmative answers only ("Don't know" included in negative answers). Categories are not mutually exclusive. Data unavailable for four patients in 2001.
11. The data shown are for 2001-2013 since information about the presence of a health care provider/volunteer, in the absence of the prescribing physician, was first collected in 2001.
12. A procedure revision was made mid-year in 2010 to standardize reporting on the follow-up questionnaire. The new procedure accepts information about time of death and circumstances surrounding death only when the physician or another health care provider is present at the time of death. This resulted in a larger number of unknowns beginning in 2010.
13. There have been a total of six patients who regained consciousness after ingesting prescribed lethal medications. These patients are not included in the total number of DWDA deaths. These deaths occurred in 2005 (1 death), 2010 (2 deaths), 2011 (2 deaths) and 2012 (1 death). Please refer to the appropriate years' annual reports on our website (http://www.healthoregon.org/dwd) for more detail on these deaths.
14. Previous reports listed 20 records missing the date care began with the attending physician. Further research with these cases has reduced the number of unknowns.
Letter to editor, New Haven Register

1 message

William Toffler <toffler@ohsu.edu> Sun, Feb 23, 2014 at 7:23 PM
To: "letters@nhregister.com" <letters@nhregister.com>

Dear Editor,

I am a professor of Family Medicine and a practicing physician in Oregon for over 30 years. I write to provide some insight on the issue of assisted suicide, which is legal in Oregon, and which has been proposed for legalization in Connecticut. (Raised Bill No. 5326)

Our law applies to "terminal" patients who are predicted to have less than six months to live. In practice, this idea of terminal has recently become stretched to include people with chronic conditions such as "chronic lower respiratory disease" and "diabetes". Persons with these conditions are considered terminal if they are dependent on their medications, such as insulin, to live. They are unlikely die in less than six months unless they don't receive their medications. Such persons, with treatment, could otherwise have years or even decades to live.

This illustrates a great problem with our law—it encourages people with years to live, to throw away their lives. I am also concerned, that by starting to label people with chronic conditions "terminal," there will be an excuse to deny such persons appropriate medical treatment to allow them to continue to live healthy and productive lives.

These factors are something for your legislators to consider. Do you want this to happen to you or your family?

Furthermore, in my practice I have had many patients ask about assisted-suicide. In each case, I have offered care and treatment but declined to provide assisted suicide. In one case, the man's response was "Thank you."

To read a commentary on the most recent Oregon government assisted-suicide report, which lists chronic conditions as the "underlying illness" justifying assisted suicide, please go here: http://www.noassistedsuicideconnecticut.org/2014/02/oregons-new-assisted-suicide-report.html

To read about some of my cases in Oregon, please go here: http://www.choiceillusion.org/p/what-people-mean_25.html

I hope that Connecticut does not repeat Oregon's mistake.

William L. Toffler MD
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Portland, OR 97239
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503-494-8573 (patient care)
503-494-4496 (fax)
toffler@ohsu.edu

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consented to defendant's acts, we are satisfied from our independent research that defendant's actions should not be treated in effect as assisting a suicide. Our Supreme Court rejected an "assisted suicide" argument in People v. Matlock (1959) 51 Cal.2d 682, 336 P.2d 505 (Matlock), stating "where a person actually performs, or actively assists in performing, the overt act resulting in death, such as shooting or stabbing the victim, administering the poison, or holding one under water until death takes place by drowning, his act constitutes murder, and it is wholly immaterial whether this act is committed pursuant to an agreement with the victim...." (id. at p. 694, 336 P.2d 505, followed in People v. Cleaves (1991) 229 Cal.App.3d 367, 376-377, 280 Cal.Rptr. 146; but see In re Joseph G. (1983) 34 Cal.3d 429, 194 Cal.Rptr. 163, 667 P.2d 1176 [making an exception to Matlock's murder rule when one of two people engaged in a simultaneous suicide effort actively employs the single instrumentality involved].)

B. Defendant's "Unusual Case" Argument

[10] Defendant argues that she plainly overcame the presumption against probation because "this was extremely unusual in the most basic, fundamental way central to the statutory bar: Ms. Stuart inflicted great bodily injury or death upon her mother out of a felt love for and duty to her. However misdirected those laudable impulses were, she acted 'from a heartfelt place,' which can rarely if ever be said about the willful infliction of death or great bodily injury." Defendant also asserts that "[t]he homicide of one's beloved parent prompted by care and concern for that aged parent and filial obedience to and honor of that parent's apparent wishes is a most peculiar manslaughter indeed, and one that is at the lowest end of the spectrum**143 of moral opprobrium when examining the motives of those who willfully inflict great bodily injury or death.” We disagree.

As we have already discussed, a reasonable person could conclude that defendant acted at least in part out of financial considerations, an all too common motivation for killing someone, and without Isabel's knowledge or consent. This undermines defendant's argument that she acted with a reduced moral culpability.

Furthermore, a killer's subjective belief about the reason for a crime, including that he or she acted out of the "compassion and empathy" that *183 defendant contends she acted upon here, does not necessarily mean the case is "unusual." It is not particularly unusual for a killer to believe his or her action was justified; it is, for example, the root of any vigilantism. Moreover, that defendant believes she acted out of good intentions has little, if any, bearing on an objective view of her legal and moral culpability under the circumstances. It is reasonable to conclude an adult child who takes it upon herself to commit the "mercy killing" of a very elderly parent based only on that parent's "apparent wishes" has abused a position of trust and committed a very serious crime. A court is not required to conclude such an act rests on a higher moral plane than any other killing. Indeed, to do so would potentially expose some of the most vulnerable in our society to the grave danger of being killed by "loved ones," however compassionate they may be, who are unable to resist a temptation that dovetails with their financial self-interest, as the record suggests may have been the case here. The trial court acted within its discretion in rejecting any arguments that defendant's motivations reduced her moral culpability, including because, as the trial court stated, defendant's killing of her mother was "perhaps the most extreme form that elder abuse can take."

C. Defendant's "Provocation and Duress" Argument

11.12.160. Interested witness--Effect on will

(1) An interested witness to a will is one who would receive a gift under the will.

(2) A will or any of its provisions is not invalid because it is signed by an interested witness. Unless there are at least two other subscribing witnesses to the will who are not interested witnesses, the fact that the will makes a gift to a subscribing witness creates a rebuttable presumption that the witness procured the gift by duress, menace, fraud, or undue influence.

(3) If the presumption established under subsection (2) of this section applies and the interested witness fails to rebut it, the interested witness shall take so much of the gift as does not exceed the share of the estate that would be distributed to the witness if the will were not established.

(4) The presumption established under subsection (2) of this section has no effect other than that stated in subsection (3) of this section.

CREDIT(S)


HISTORICAL AND STATUTORY NOTES

Effective dates--1994 c 221: See note following RCW 11.94.070.

Laws 1994, ch. 221, § 16, rewrote the section, which previously read:

"All beneficial devises, legacies, and gifts whatever, made or given in any will to a subscribing witness thereto, shall be void unless there are two other competent witnesses to the same; but a mere charge on the estate of the testator for the payment of debts shall not prevent his creditors from being competent witnesses to his will. If such witness, to whom any beneficial devise, legacy or gift may have been made or given, would have been entitled to any share in the testator's estate in case the will is not established, then so much of the estate as would have descended or would have been distributed to such witness shall be saved to him as will not exceed the value of the devise or bequest made to him in the will; and he may recover the same from the devisees or legatees named in the will in proportion to and out of the parts devised and bequeathed to him."

Source:

Laws 1860, p. 171, § 34.
Code 1881, § 1331.
Laws 1917, ch. 156, § 38.
ingest definition

**ingest** (in jest')

*transitive verb*

to take (food, drugs, etc.) into the body, as by swallowing, inhaling, or absorbing

Origin: < L *ingestus*, pp. of *ingerere*, to carry, put into < *in-*, into + *gerere*, to carry

Related Forms:
- **Ingestion** in-ges'-tion noun
- **Ingestive** in-ges'-tive adjective

---

**ingest** (in-jēst')

*transitive verb* in-gest-ed, in-gest-ing, in-gests

1. To take into the body by the mouth for digestion or absorption. See Synonyms at eat.
2. To take in and absorb as food: "Marine ciliates ... can be observed ... ingesting other single-celled creatures and harvesting their chloroplasts" (Carol Kaesuk Yoon).

Origin: Latin *ingerere*, ingest- : in-, in; see in- ² + *gerere*, to carry.

Related Forms:
- **Ingestible** adjectival
- **Ingestion** in-ges'-tion noun
- **Ingestive** in-ges'-tive adjective

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*Dictionary Home > Dictionary Definitions > Ingest*
- **Dictionary Definitions**
- **Thesaurus Synonyms**
- **Sentence Examples**

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http://www.yourdictionary.com/ingest
Opinion 2.21 - Euthanasia

Euthanasia is the administration of a lethal agent by another person to a patient for the purpose of relieving the patient's intolerable and incurable suffering.

It is understandable, though tragic, that some patients in extreme duress--such as those suffering from a terminal, painful, debilitating illness--may come to decide that death is preferable to life. However, permitting physicians to engage in euthanasia would ultimately cause more harm than good. Euthanasia is fundamentally incompatible with the physician's role as healer, would be difficult or impossible to control, and would pose serious societal risks.

The involvement of physicians in euthanasia heightens the significance of its ethical prohibition. The physician who performs euthanasia assumes unique responsibility for the act of ending the patient's life. Euthanasia could also readily be extended to incompetent patients and other vulnerable populations.

Instead of engaging in euthanasia, physicians must aggressively respond to the needs of patients at the end of life. Patients should not be abandoned once it is determined that cure is impossible. Patients near the end of life must continue to receive emotional support, comfort care, adequate pain control, respect for patient autonomy, and good communication. (I, IV)

Instructions for Medical Examiners, Coroners, and Prosecuting Attorneys: Compliance with the Death with Dignity Act

Washington’s Death with Dignity Act (RCW 70.245) states that “...the patient’s death certificate...shall list the underlying terminal disease as the cause of death.” The act also states that, “Actions taken in accordance with this chapter do not, for any purpose, constitute suicide, assisted suicide, mercy killing, or homicide, under the law.”

If you know the decedent used the Death with Dignity Act, you must comply with the strict requirements of the law when completing the death record:

1. The underlying terminal disease must be listed as the cause of death.
2. The manner of death must be marked as “Natural.”
3. The cause of death section may not contain any language that indicates that the Death with Dignity Act was used, such as:
   a. Suicide
   b. Assisted suicide
   c. Physician-assisted suicide
   d. Death with Dignity
   e. I-1000
   f. Mercy killing
   g. Euthanasia
   h. Secobarbital or Seconal
   i. Pentobarbital or Nembutal

The Washington State Registrar will reject any death certificate that does not properly adhere to the requirements of the Death with Dignity Act. If a death certificate contains any reference to actions that might indicate use of the act, the Local Registrar and Funeral Director will be instructed, under RCW 70.58.030, to obtain a correction from the medical certifier before a permit to proceed with disposition will be issued.

Call the Department of Health’s Center for Health Statistics (360-236-4307) for guidance on how to proceed if you have any questions regarding compliance with cause of death reporting under the Death with Dignity Act.

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1 Under state law, the State Registrar of Vital Statistics “shall prepare and issue such detailed instruction as may be required to secure the uniform observance of its provisions and the maintenance of a perfect system of registration. ... The State Registrar shall carefully examine the certificates received monthly from the local registrars, county auditors, and clerks of the court and, if any are incomplete or unsatisfactory, the State Registrar shall require such further information to be furnished as may be necessary to make the record complete and satisfactory.” RCW 43.70.160.
Death Drugs Cause Uproar in Oregon

Terminally Ill Denied Drugs for Life, But Can Opt for Suicide

By SUSAN DONALDSON JAMES

Aug. 6, 2008 —

The news from Barbara Wagner's doctor was bad, but the rejection letter from her insurance company was crushing.

The 64-year-old Oregon woman, whose lung cancer had been in remission, learned the disease had returned and would likely kill her. Her last hope was a $4,000-a-month drug that her doctor prescribed for her, but the insurance company refused to pay.

What the Oregon Health Plan did agree to cover, however, were drugs for a physician-assisted death. Those drugs would cost about $50.

"It was horrible," Wagner told ABCNews.com. "I got a letter in the mail that basically said if you want to take the pills, we will help you get that from the doctor and we will stand there and watch you die. But we won't give you the medication to live."

Critics of Oregon's decade-old Death With Dignity Law -- the only one of its kind in the nation -- have been up in arms over the indignity of her unsigned rejection letter. Even those who support Oregon's liberal law were upset.

The incident has spilled over the state border into Washington, where advocacy groups are pushing for enactment of Initiative 1000 in November, legalizing a similar assisted-death law.

Opponents say the law presents all involved with an "unacceptable conflict" and the impression that insurance companies see dying as a cost-saving measure. They say it steers those with limited finances toward assisted death.

"News of payment denial is tough enough for a terminally ill person to bear," said Steve Hopcraft, a spokesman for Compassion and Choices, a group that supports coverage of physician-assisted death.

Letter's Impact 'Devastating'

"Imagine if the recipient had pinned his hope for survival on an unproven treatment, or if this were the first time he understood the disease had entered the terminal phase. The impact of such a letter would be devastating," he told ABCNews.com.

Wagner, who had worked as a home health care worker, a waitress and a school bus driver, is divorced and...
SPRINGFIELD, Ore. - Barbara Wagner has one wish - for more time.

"I'm not ready, I'm not ready to die," the Springfield woman said. "I've got things I'd still like to do."

Her doctor offered hope in the new chemotherapy drug Tarceva, but the Oregon Health Plan sent her a letter telling her the cancer treatment was not approved.

Instead, the letter said, the plan would pay for comfort care, including "physician aid in dying," better known as assisted suicide.

"I told them, I said, 'Who do you guys think you are?' You know, to say that you'll pay for my dying, but you won't pay to help me possibly live longer?" Wagner said.

An unfortunate interpretation?

Dr. Som Saha, chairman of the commission that sets policy for the Oregon Health Plan, said Wagner is making an "unfortunate interpretation" of the letter and that no one is telling her the health plan will only pay for her to die.

But one critic of assisted suicide calls the message disturbing nonetheless.

"People deserve relief of their suffering, not giving them an overdose," said Dr. William Toffler.

He said the state has a financial incentive to offer death instead of life: Chemotherapy drugs such as Tarceva cost $4,000 a month while drugs for assisted suicide cost less than $100.
Saha said state health officials do not consider whether it is cheaper for someone in the health plan to die than live. But he admitted they must consider the state's limited dollars when dealing with a case such as Wagner's.

"If we invest thousands and thousands of dollars in one person's days to weeks, we are taking away those dollars from someone," Saha said.

But the medical director at the cancer center where Wagner gets her care said some people may have incredible responses to treatment.

Health plan hasn't evolved?

The Oregon Health Plan simply hasn't kept up with dramatic changes in chemotherapy, said Dr. David Fryefield of the Willamette Valley Cancer Center.

Even for those with advanced cancer, new chemotherapy drugs can extend life.

Yet the Oregon Health Plan only offers coverage for chemo that cures cancer - not if it can prolong a patient's life.

"We are looking at today's ... 2008 treatment, but we're using 1993 standards," Fryefield said. "When the Oregon Health Plan was created, it was 15 years ago, and there were not all the chemotherapy drugs that there are today."

Patients like Wagner can appeal a decision if they are denied coverage. Wagner appealed twice but lost both times.

However, her doctors contacted the pharmaceutical company, Genentech, which agreed to give her the medication without charging her. But doctors told us, that is unusual for a company to give away such an expensive medication.
Sensationalizing a sad case cheats the public of sound debate

Posted by rattl November 29, 2008 19:30PM

In the crucial period leading up to Washington State's vote on an Oregon-style Death with Dignity law, this newspaper published a story featuring Barbara Wagner. A sensational story, an easy media "gotcha" on Oregon's Medicaid program, it completely missed the deeper questions crucial to public understanding of end-of-life care and our national healthcare debate.

Readers will recall Wagner as a 64-year-old Springfield resident with end stage lung cancer, a life-long smoker enrolled in the Oregon Health Plan (OHP). Over several years the OHP had paid for extensive cancer treatment and it continued to pay for Wagner's healthcare until her death.

When it became clear that first and second-line therapies had failed and her prognosis was grim, Ms. Wagner's oncologist recommended a costly, third-line cancer drug called Tarceva. Research indicates that 8 percent of advanced lung cancers respond to Tarceva, with a chance to extend life from an average of 4 months to 6 months. The likelihood of no response to the drug is 92 percent, yet 19 percent of patients develop toxic side effects like diarrhea and rash. Based on the low indicators of effectiveness, Oregon Health Plan denied coverage.

The irresistible ingredients of sensationalism included a distraught patient, a doctor deeply opposed to Death with Dignity and an insensitive letter of payment denial. The media was called in and the rest is history.

As a publicly funded service, Oregon Health Plan aims to do the greatest good it can. It assigns a high priority to preventive care, health maintenance, and treatments that offer a near-certain cure. Elective, cosmetic or ineffective, "futile" care is not covered. Futile care is defined as any treatment without at least a 5 percent chance of 5 year survival. "We can't cover everything for everyone," said the medical director of OHP.

"Taxpayer dollars are limited for publicly funded programs. We try to come up with policies that provide the most good for the most people."

The OHP letter denying one ineffective treatment did not close the door on all care. It included a long list of appropriate end-of-life care that OHP would pay for, including hospice, medical equipment, palliative services and state-of-the-art pain and symptom management. Yes, the list included medication prescribed under the Oregon Death with Dignity Act. The media juxtaposed denial of Tarceva with coverage for aid in dying in a sensational, emotional manner, suggesting the two were related. Many stories ensued about supposedly callous bureaucrats refusing to prolong life but agreeing to shorten it. It made for a catchy story ... but not truthful journalism.

Was it true that Ms. Wagner was harmed in any manner? Or that Tarceva was an efficacious option?

http://blog.oregonlive.com/opinion_impact/2008/11/sensationalizing_a_sad_case_ch/print.html
Ms. Wagner received Tarceva, anyway, when the drug's manufacturer, Genentech, responding to the media firestorm and provided it at no cost. News stories never mentioned that when Wagner bet on the remote chance to prolong life, she probably turned her back on hospice care, widely recognized as the gold standard for end-of-life care. Sadly, it turned out Tarceva didn't help Wagner and she lived only a short time after starting the drug.

While the media widely reported OHP's denial of this expensive experimental treatment, we worry the media missed the important issues inherent in the story.

What do patients like Wagner really understand about the "last hope" treatments their doctors offer? Do doctors inform patients of the true statistical chance these therapies will prolong life, or the chance of toxic side effects that diminish the quality of the short life that remains? Might Wagner have been better served, and perhaps even lived longer, if her doctors had referred her to hospice instead of recommending a drug so toxic and so unlikely to extend her life? How many times do patients lose out on the real hope and comfort hospice offers because they are encouraged to grasp for the small hope of largely ineffective chemotherapy? Do financial incentives play a role in whether physicians recommend long-shot chemotherapy instead of comprehensive comfort care?

While the OHP decision was closely scrutinized, there was no scrutiny of realistic options considered or not considered and the decision-making process. The burning health policy question is whether we inadvertently encourage patients to act against their own self interest, chase an unattainable dream of cure, and foreclose the path of acceptance that curative care has been exhausted and the time for comfort care is at hand. Such encouragement serves neither patients, families, nor the public.

Barbara Roberts, Oregon's wise and gentle former governor, tells in her first book the story of how she and her husband Frank reacted to the news that he had entered the terminal stage of prostate cancer. She describes how immediately after disclosing the grim prognosis, the doctor announced he was setting up an appointment for chemotherapy! Frank asked two crucial questions, "Will this treatment extend my life?" and "For how long." And when the answers, balanced against the likely toxic side effects, didn't add up to how Frank envisioned his last days on earth, he declined the doctor's recommended treatment.

Roberts writes that chemotherapy seemed, "a medical misjudgment encouraged by a culture in denial and a medical profession equally in denial and unwilling to treat death as normal." Frank said "no" to treatment. But he said "yes" to life and began the "hard work of acceptance" of what is means to be mortal.

In order for society to overcome its collective denial of mortality, we desperately need a public dialogue that shuns superficial sensationalism and leads us to, and through, the hard questions. We're Oregonians. We can handle it.

Coombs Lee is president of the group Compassion & Choices.

Comments

LetDocDecide says...

My wife was diagnosed with Stage IIIb lung cancer (which really should have been stage IV) in April 2006. The diagnosing surgeon announced that there was no hope, and that my wife would only live a short time. In fact, the prognosis for my wife suggested she had a 1%-2% chance of surviving 2 years. Thankfully, we had an ambitious Oncologist that thought the surgeon's opinion was wrong.
Sensationalizing a sad case cheats the public of sound debate - Opinion Impact - The Oregonian...

While it is easy to armchair quarterback the appropriateness of health care treatments. You can be the one that tells my 8 and 10 year old sons that their mother should not receive Tarceva because it is an "experimental treatment". The efficacy of all chemotherapy treatments are ALL poor. The first line chemo treatment (carboplatin/Paclitaxel) that my wife received had only a 35% likelihood of a positive response. That was 2 years and 8 months ago and she is still kicking. Her response to Tarceva has been an exceptional one, resulting in a significant reduction of the size and number of tumors in her remaining right lung. After a 3rd line chemo treatment failed 3 months ago, Tarceva is probably the only reason she is spending Christmas day with me and my boys. In fact, I expect that she will continue having a positive response to the Tarceva for at least a couple of months. Anyone with a loved one with a terminal disease would appreciate the added time.

On the topic of cost and side effects, the side-effects of Tarceva (rash and diarrhea) are nothing compared to the side effects of the Taxane or platinum chemotherapy drugs (severe anemia, reduced white blood counts and platelet levels, severe nausea, body PAIN, etc.).

In addition to these benefits, the cost of Tarceva (about $4000/month) is NOT HIGHER than the cost of chemotherapy (about $8000 per treatment every 3 weeks). It is expensive to treat cancer, period. It is unclear to me whether the author of this news story is appealing for the denial of all cancer treatments, or just Tarceva. If that is the case, they can tell the family of the next Stage IIIb/IV lung cancer patient that treatment is not worth the cost. What the hell, perhaps we should just Euthanize all cancer patients at the time of diagnosis to save a little money.

I believe that the spiralling costs of health care are not caused by the compassionate treatment of those with terminal diseases. The real culprits are 1) the fact that to many individuals that have no health insurance use emergency care at a huge cost premium over preventative care; 2) People have had no incentive to use healthy lifestyles as a preventative; 3) Many people with insurance are not smart shoppers when it comes to health care. This leads to people having expensive diagnostic procedures like MRI and CT scans inappropriately.

We need to wakeup, do a little research into the available treatments for our ailments, and determine if the increased public cost for not insuring everyone and using more preventative health care.

Respectfully
Bob

Posted on 12/25/08 at 12:16AM

Barbara Coombs Lee is President of Compassion & Choices, a nonprofit organization dedicated to expanding and protecting the rights of the terminally ill. She practiced as a nurse and physician assistant for 25 years before beginning a career in law and health policy. Since then she has devoted her professional life to individual choice and empowerment in health care. As a private attorney, as counsel to the Oregon State Senate, as a managed care executive and finally as Chief Petitioner for Oregon’s Death with Dignity Act, she has championed initiatives that enable individuals to consider a full range of choices and be full participants in their health care decisions.

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Blog Entries by Barbara Coombs Lee

Five States Give Patients Choice

Posted September 27, 2010 | 11:33 AM (EST)

"There's nothing more we can do." For too long, for too many, medical professionals have used these words when they believe they cannot cure their patients. Facing, as each of us must, the nearness of death, terminally ill patients too often speak of abandonment by...

Read Post

Medical Society of New York Fights Palliative Care Information Act Despite Mounting Evidence

2 Comments | Posted September 3, 2010 | 04:33 PM (EST)

The ink of Governor Paterson's signature is barely dry on New York's Palliative Care Information Act (PCIA), drafted and sponsored by Compassion & Choices and its New York affiliate, yet evidence mounts daily for its vast and dramatic impact on end-of-life care. I predict this bill...

Read Post

New York's Palliative Care Information Act: A Sea Change in End-of-Life Care

2 Comments | Posted August 19, 2010 | 07:01 PM (EST)

Word came Sunday night from Compassion & Choices New York that Governor Paterson had signed our bill, the Palliative Care Information Act, (PCIA) and it would take effect in 180 days. Hooray!! We hope and trust this event marks the beginning of the end for endemis medical habits that...

Read Post

Compassion & Choices Membership: Something to be Proud Of

Posted July 14, 2010 | 03:15 PM (EST)

Recently Capitol Hill staffers pulled Compassion & Choices into federal politics, suggesting the new Administrator of the Centers for Medicare and Medicaid Services, Donald Berwick, should be called before Congress to answer accusations that he is a member, or affiliated somehow with C&C. "Are you now,...

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Financial Abuse Costs Elders More Than $2.6 Billion Annually, According to MetLife Mature Market Institute Study, Though Four in Five Cases Are Not Reported

Family Members and Caregivers are Responsible in 55% of Cases

Related Costs Reach into the Tens of Millions

Prevention Tips Available for Older Americans and Their Families

WESTPORT, Conn.--(BUSINESS WIRE)--Elder financial abuse costs older Americans more than $2.6 billion per year and is most often perpetrated by family members and caregivers, according to a new report released by the MetLife Mature Market Institute (MMI) entitled, Broken Trust: Elders, Family and Finances, which is accompanied by tip sheets for older adults and families on how to prevent such issues. The report, produced in conjunction with the National Committee for the Prevention of Elder Abuse (NCPEA) and Virginia Polytechnic Institute and State University, states up to one million older Americans may be targeted yearly and that related costs like health care, social services, investigations, legal fees, prosecution, lost income and assets reach tens of millions of dollars annually. The study indicates that for each case of abuse reported, there are an estimated four or more that go unreported. The economic downturn may increase vulnerability. Family members and caregivers are the culprits in 55% of cases, although financial losses are higher with investment fraud scams.

The National Adult Protective Services Association (NAPSA) suggests that the "typical" victim of elder financial abuse is between the ages of 70 and 89, white, female, frail and cognitively impaired. She is trusting of others and may be lonely or isolated, although reports show that there is a very diverse population of victims.

"Elder financial abuse has been called the 'crime of the 21st century,'" said Sandra Timmermann, Ed.D., director of the MetLife Mature Market Institute. "With the present state of the economy, older Americans are at a greater risk than ever of having their financial security threatened. And, for every dollar lost to theft and abuse, there are still more related costs associated with stress and health care and the intervention of social service, investigative and legal entities.

"This is also a growing problem made greater by the increase in the number of older Americans as targets, the relative wealth of this group, a change in family structure and the availability of technology that may make such abuse somewhat easier," said Timmermann.

http://www.businesswire.com/portal/site/home/?news_viewId=news_view&newsId=20090317002939000002
"Sadly, family members and caregivers tend to financially exploit their elderly relatives more often than strangers. Community service providers and other professionals agree, however, that reported cases represent only the very 'tip of the iceberg.' Scholars and practitioners speculate that, like perpetrators of other types of elder abuse, family members who exploit their elders are dependent upon them financially and their actions may be influenced by other problems such as alcohol and drug abuse. In addition, some family members feel a sense of entitlement and believe that they have a right to the money and material goods their parents or older relatives have accumulated," Timmermann added.

Pamela B. Teaster, Ph.D., NCPEA president, said the data provided through the National Center on Elder Abuse daily newsfeed proved invaluable. "The feed tracks media reports of elder abuse through Google and Yahoo Alerts, a process that scans billions of Web pages," said Teaster. "Not only were we able to put a face on the information reported in the primary literature, but more importantly, we had real-time information on financial elder abuse and information from numerous reporting sources," she said.

The 2006 national Survey of State Adult Protective Services revealed that victims range in estimated number from a low of 100,000 to a high of one million a year. It is believed that these numbers will grow with the aging population and their increasing net worth.

Elder financial abuse takes many forms, including, but not limited to: fraud (coupon, telemarketing, mail); repair and contracting scams; "sweetheart scams;" false/fraudulent advice from loan officers, stock brokers, insurance salespersons, accountants and bank officials; undue influence; illegal viatical settlements; abuse of powers of attorney and guardianship; identity theft; Internet "phishing;" failure to fulfill contracted health care services; and Medicare and Medicaid fraud.

The report states that the justice and social services systems are often inadequately trained, staffed and funded to address elder financial abuse. Further, at times it is difficult to determine whether financial abuse occurred or if one unwittingly or knowingly made a poor financial decision. Generally under state jurisdiction, most states mention financial exploitation in their statutes, although what it constitutes, who is covered and who is accountable vary as widely as do the remedies. A bill before Congress since 2002, The Elder Justice Act, would increase awareness of elder abuse, neglect and exploitation at the national level and would train individuals from various disciplines, combat elder abuse and prosecute cases. An additional measure would create an Elder Justice Coordinating Council.

Underreporting is attributed to fear of government interference, parents protecting their children and family members; embarrassment and self-blame; a lack of realization that abuse has occurred; fear of being placed in a facility; fear of harm from the perpetrator; and a belief that nothing will be done or more money will be lost.

Additional facts:

- Reports vary as to whether women or men are more vulnerable to financial abuse, but loneliness and isolation clearly leave one more
exposed to theft. The average victim of elder abuse is a woman over the age of 75 who lives alone (48% of women over the age of 75, according to the Administration on Aging). Men are reported to be particularly vulnerable to the "sweetheart scam."

- 60% of substantiated Adult Protective Services (APS) cases of elder abuse involve an adult child; sons are 2.5 times more likely than other family members to take advantage of parents.

- In addition to the obvious financial loss, long-term effects include credit problems, health issues, depression and the loss of independence.

- Signs of abuse include indications of intimidation by or fear of a caregiver, isolation from family and friends, disheveled appearance, anxiety about finances, new "best friends" and missing belongings.

- Elder financial abuse can be prevented by the following: 1) education about one's rights and about the various types of consumer fraud and scams; 2) Financial conservatorship and/or power of attorney for those who are vulnerable; 3) Assignment of responsibility to a trusted outside person, if children are a concern; 4) Additional media attention for this issue; 5) Training financial professionals to properly assist older customers; 6) Assistance from social services, medical/nursing personnel, government agencies; 7) Reporting suspected cases of financial abuse to local authorities.

Methodology

Leading researchers from the National Center for the Prevention of Elder Abuse (NCPEA), Virginia Polytechnic Institute and State University (Virginia Tech) reviewed all Newsfeed articles from April through June 2008 from the Administration on Aging's National Center on Elder Abuse (NCEA), a newly established database which tracks media reports of elder abuse through Google and Yahoo Alerts scanning billions of web pages. The researchers also searched 12 electronic databases that index academic journals containing primary literature on elder abuse from 1998 through June 2008 to provide the basis for this analysis. They found 168 articles from journals in the social science, medical and legal disciplines. At the same time, they conducted a database search of organizational and trade magazines published from 2005 to 2008 to find mentions of elder financial abuse by business and private-sector professionals (e.g., bankers, financial planners, insurance agents) who frequently interact with older adults. That search resulted in 110 articles on this topic.

National Committee for the Prevention of Elder Abuse

The National Committee for the Prevention of Elder Abuse (NCPEA) is an association of researchers, practitioners, educators and advocates dedicated to protecting the safety, security and dignity of America's most vulnerable citizens. It was established in 1988 to achieve a clearer understanding of abuse and provide direction and leadership to prevent it. The Committee is one of six partners that make up the National Center on Elder Abuse, which is funded by Congress to serve as the nation's clearinghouse on information and materials on abuse and neglect. To learn
# The MetLife Study of Elder Financial Abuse

## Crimes of Occasion, Desperation, and Predation Against America's Elders

The study is a follow-up of MetLife's 2009 "Broken Trust: Elders, Family, and Finances" and examines the prevalence and impact of elder financial abuse in America today. It demonstrates how these crimes continue to decimate incomes, impact the health and well-being of its victims, and fracture families. Yet it still is underreported, under-recognized, and under-prosecuted.

### Key Findings

- Instances of fraud perpetrated by strangers comprised 51% of articles related to elder financial abuse, followed by family, friends, and neighbors (34%), the business sector (12%), and Medicare and Medicaid fraud (4%).
- Medicare and Medicaid fraud resulted in the highest average loss per case in that category.
- Women were twice as likely as men to be victims of elder financial abuse, with most being between the ages of 80 and 89, living alone, and requiring some level of help with either health care or home maintenance.

- Nearly 60% of perpetrators were men, mostly between the ages of 30 and 59.
- Dollar losses over the holidays due to family, friends, and neighbor perpetrators were overall higher than any other category due to number of instances, although the highest average dollar loss per individual was from business perpetrators.
The MetLife Study of Elder Financial Abuse

Crimes of Occasion, Desperation, and Predation Against America's Elders

Overview

In 2009, the MetLife Mature Market Institute, in collaboration with the National Committee for the Prevention of Elder Abuse (NCPEA), and the Center for Gerontology at Virginia Tech, released a groundbreaking study to provide a comprehensive understanding of the extent and implications of elder financial abuse. The study, Broken Trust: Elders, Family, and Finances, consisted of a review of the scholarly and professional literature and an in-depth analysis of National Center on Elder Abuse (NCEA) newsfeed articles from April through June 2008. It was designed to provide easily accessible and well-researched information specifically focused on the problem of elder financial abuse.

In 2010, to further examine the impact of elder financial abuse on the lives of seniors nationwide, the Institute again partnered with leading researchers, Dr. Karen A. Roberto at Virginia Tech and Dr. Pamela B. Teaster at the University of Kentucky, in consultation with NCPEA. The team expanded its analysis of research published in the scholarly literature and again gathered articles from the National Center on Elder Abuse newsfeed. In addition, several individuals whose stories appeared in the 2008 newsfeeds were contacted and asked to share subsequent information about their situations. Newsfeed articles were analyzed from April through June 2010. An additional subset was collected during the 2010 holiday period (November 2010 through January 2011) to determine if instances of elder financial abuse increase during this time when family and friends are in greater proximity and with greater frequency. The MetLife Study of Elder Financial Abuse: Crimes of Occasion, Desperation, and Predation Against America's Elders further illuminates the widening problem of elder financial abuse.

Key Findings

- The annual financial loss by victims of elder financial abuse is estimated to be at least $2.9 billion dollars, a 12% increase from the $2.6 billion estimated in 2008.

- Instances of fraud perpetrated by strangers comprised 51% of the articles. Reports of elder financial abuse by family, friends, and neighbors came in second, with 34% of the news articles followed by reports of exploitation within the business sector (12%) and Medicare and Medicaid fraud (4%).

- Medicare and Medicaid fraud resulted in the highest average loss to victims ($38,263,136) in that category followed by fraud by business and industry ($6,219,496), family, friends, and neighbors ($145,768), and fraud by strangers ($95,156).
The MetLife Mature Market Institute, in partnership with Virginia Tech, the University of Kentucky, and NCPEA conducted a study to determine the extent and consequences of elder financial abuse. Newsfeed articles, collected daily by the National Association of Adult Protective Services (NAPSA) through an initiative funded by the National Center on Elder Abuse (NCEA), served as a primary source of information. This newsfeed database tracks media reports of all types of elder abuse through Google and Yahoo Alerts, which scanned billions of Web pages. In order to compare to findings presented in Broken Trust: Elders, Family, and Finances (2009), articles on elder financial abuse were gathered from April through June 2010. Over the time period, the scans identified 389 unduplicated articles on elder financial abuse of any type from a total of 1,248 articles cited. Of those, 314 (81%) reported specific instances of financial abuse and provided information on victims and/or perpetrators. An additional 354 cases were identified in the newsfeed database between November 2010 and January 2011 for the holiday period analysis.

For More Information
The MetLife Study of Elder Financial Abuse, The Essentials: Preventing Elder Abuse, Tips: Preventing Elder Abuse for Older Americans, and Tips: Preventing Elder Abuse for Family Caregivers may be downloaded from www.MatureMarketInstitute.com. They can also be ordered by writing to: MetLife Mature Market Institute, 57 Greens Farms Road, Westport, CT 06880.

The MetLife Mature Market Institute
The MetLife Mature Market Institute is MetLife's center of expertise in aging, longevity and the generations and is a recognized thought leader by business, the media, opinion leaders and the public. The Institute's groundbreaking research, insights, strategic partnerships and consumer education expand the knowledge and choices for those in, approaching or working with the mature market.

The Institute supports MetLife's long-standing commitment to identifying emerging issues and innovative solutions for the challenges of life. MetLife, Inc. is a leading global provider of insurance, annuities and employee benefit programs, serving 90 million customers in over 60 countries. Through its subsidiaries and affiliates, MetLife holds leading market positions in the United States, Japan, Latin America, Asia Pacific, Europe and the Middle East. For more information, please visit: www.MatureMarketInstitute.com.

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Rising suicide rate in Oregon reaches higher than national average:

World Suicide Prevention Day is September 10

Oregon’s suicide rate is 35 percent higher than the national average. The rate is 15.2 suicides per 100,000 people compared to the national rate of 11.3 per 100,000.

After decreasing in the 1990s, suicide rates have been increasing significantly since 2000, according to a new report, "Suicides in Oregon: Trends and Risk Factors," from Oregon Public Health. The report also details recommendations to prevent the number of suicides in Oregon.

"Suicide is one of the most persistent yet preventable public health problems. It is the leading cause of death from injuries — more than even from car crashes. Each year 550 people in Oregon die from suicide and 1,800 people are hospitalized for non-fatal attempts," said Lisa Millet, MPH, principal investigator, and manager of the Injury Prevention and Epidemiology Section, Oregon Public Health.

There are likely many reasons for the state’s rising suicide rate, according to Millet. The single most identifiable risk factor associated with suicide is depression. Many people can manage their depression; however, stress and crisis can overwhelm their ability to cope successfully.

Stresses such as from job loss, loss of home, loss of family and friends, life transitions and also the stress veterans can experience returning home from deployment — all increase the likelihood of suicide among those who are already at risk.

"Many people often keep their depression a secret for fear of discrimination. Unfortunately, families, communities, businesses, schools and other institutions often discriminate against people with depression or other mental illness. These people will continue to die needlessly unless they have support and effective community-based mental health care," said Millet.

The report also included the following findings:

- There was a marked increase in suicides among middle-aged women. The number of women between 45 and 64 years of age who died from suicide rose 55 percent between 2000 and 2006 — from 8.2 per 100,000 to 12.8 per 100,000 respectively.

Oregon Health Authority
Suicides in Oregon: Trends and Risk Factors
-2012 Report-

Oregon Violent Death Reporting System
Injury and Violence Prevention Program
Center for Prevention and Health Promotion
Executive Summary

Suicide is one of Oregon’s most persistent yet largely preventable public health problems. Suicide is the second leading cause of death among Oregonians ages 15-34, and the 8th leading cause of death among all Oregonians in 2010. The financial and emotional impacts of suicide on family members and the broader community are devastating and long lasting. This report provides the most current suicide statistics in Oregon that can inform prevention programs, policy, and planning. We analyzed mortality data from 1981 to 2010 and 2003 to 2010 data of the Oregon Violent Death Reporting System (ORVDRS). This report presents findings of suicide trends and risk factors in Oregon.

Key Findings

In 2010, the age-adjusted suicide rate among Oregonians of 17.1 per 100,000 was 41 percent higher than the national average.

The rate of suicide among Oregonians has been increasing since 2000.

Suicide rates among adults ages 45-64 rose approximately 50 percent from 18.1 per 100,000 in 2000 to 27.1 per 100,000 in 2010. The rate increased more among women ages 45-64 than among men of the same age during the past 10 years.

Suicide rates among men ages 65 and older decreased approximately 15 percent from nearly 50 per 100,000 in 2000 to 43 per 100,000 in 2010.

Men were 3.7 times more likely to die by suicide than women. The highest suicide rate occurred among men ages 85 and over (76.1 per 100,000). Non-Hispanic white males had the highest suicide rate among all races/ethnicity (27.1 per 100,000). Firearms were the dominant mechanism of injury among men who died by suicide (62%).

Approximately 26 percent of suicides occurred among veterans. Male veterans had a higher suicide rate than non-veteran males (44.6 vs. 31.5 per 100,000). Significantly higher suicide rates were identified among male veterans ages 18-24, 35-44 and 45-54 when compared to non-veteran males. Veteran suicide victims were reported to have more physical health problems than non-veteran males.

Psychological, behavioral, and health problems co-occur and are known to increase suicide risk. Approximately 70 percent of suicide victims had a diagnosed mental disorder, alcohol and/or substance use problems, or depressed mood at time of death. Despite the high prevalence of mental health problems, less than one third of male victims and about 60 percent of female victims were receiving treatment for mental health problems at the time of death.

Eviction/loss of home was a factor associated with 75 deaths by suicide in 2009-2010.
Introduction

Suicide is an important public health problem in Oregon. Health surveys conducted in 2008 and 2009 show that approximately 15 percent of teens and four percent of adults ages 18 and older had serious thoughts of suicide during the past year; and about five percent of teens and 0.4 percent of adults made a suicide attempt in the past year. In 2010, there were 685 Oregonians who died by suicide and more than 2,000 hospitalizations due to suicide attempts. Suicide is the second leading cause of death among Oregonians ages 15-34, and the 5th leading cause of death among all ages in Oregon. The cost of suicide is enormous. In 2010 alone, self-inflicted injury hospitalization charges exceeded 41 million dollars, and the estimate of total lifetime cost of suicide in Oregon was over 680 million dollars. The loss to families and communities broadens the impact of each death.


Methods, data sources and limitations

Suicide is a death resulting from the intentional use of force against oneself. In this report, suicide deaths are identified according to International Classification of Diseases, Tenth Revision (ICD-10) codes for the underlying cause of deaths on death certificates. Suicide was considered with code of X60-84 and Y87.0. Deaths relating to the Death with Dignity Act (physician-assisted suicides) are not classified as suicides by Oregon law and therefore are excluded from this report.

Mortality data from 1981 to 2010 are from Web-based Injury Statistics Query and Reporting System (WISQARS) of the Centers of Disease Control and Prevention2. This system contains information from death certificates filed in state vital statistics offices.

The ORVDRS is a statewide, active surveillance system that collects detailed information on all homicides, suicides, deaths of undetermined intent, deaths resulting from legal intervention, and deaths related to unintentional firearm injuries1. ORVDRS obtains data from Oregon medical examiners, local police agencies, death certificates, and the Homicide Incident Tracking System. All available data are reviewed, coded, and stored in the National Violent Death Reporting System. Details regarding NVDRS procedures and coding are available at http://www.cdc.gov/ncipc/profiles/nvdrs/publications.htm.

Rates were calculated according to death counts and bridged-race postcensal estimates released by the National Center for Health Statistics (NCHS)3. The age-adjusted rate was adjusted to the 2000 standard million. Because of limited death counts in some categories, some rates might not be statistically reliable or stable; use caution with regard to those categories with fewer than 20 deaths.

A three-year moving average of age-specific suicide death rates was computed to smooth fluctuations from one year to another. The trend in rates was tested by using Poisson regression analysis. P<0.05 is considered significant.

When comparing rates, 95 percent confidence intervals were calculated. If the 95 percent confidence intervals do not overlap, then the difference is considered to be statistically significant at the 0.05-level4. A Chi-square test was used to test the difference on proportion (percentage) in the studying groups.


Death by request in Switzerland: Posttraumatic stress disorder and complicated grief after witnessing assisted suicide

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ABSTRACT

Background: Despite continuing political, legal and moral debate on the subject, assisted suicide is permitted in only a few countries worldwide. However, few studies have examined the impact that witnessing assisted suicide has on the mental health of family members or close friends.

Methods: A cross-sectional survey of 85 family members or close friends who were present at an assisted suicide was conducted in December 2007. Full or partial Post-Traumatic Distress Disorder (PTSD; Impact of Event Scale–Revised), depression and anxiety symptoms (Brief Symptom Inventory) and complicated grief (Inventory of Complicated Grief) were assessed at 14 to 24 months post-loss.

Results: Of the 85 participants, 13% met the criteria for full PTSD (cut-off > 35), 6.5% met the criteria for subthreshold PTSD (cut-off > 25), and 4.9% met the criteria for complicated grief. The prevalence of depression was 16%; the prevalence of anxiety was 6%.

Conclusion: A higher prevalence of PTSD and depression was found in the present sample than has been reported for the Swiss population in general. However, the prevalence of complicated grief in the sample was comparable to that reported for the general Swiss population. Therefore, although there seemed to be no complications in the grief process, about 20% of respondents experienced full or subthreshold PTSD related to the loss of a close person through assisted suicide.

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1. Introduction

Assisted suicide and euthanasia for terminally ill patients are punishable by law almost everywhere except Switzerland, the Netherlands, Belgium and the U.S. states of Oregon and Washington. Assisted suicide is generally defined as the prescribing or supplying of drugs with the explicit intention of enabling the patient to end his or her own life. In euthanasia, in contrast, it is the physician who administers the lethal drug. In the Netherlands and Belgium, physician-assisted euthanasia is legally permitted, meaning that physicians are allowed to administer drugs to end a patient’s life at his or her request. In Switzerland, in contrast, euthanasia is punishable by imprisonment (Article 114 of the Swiss penal code). It is only in the absence of self-serving motives that assisting another person’s suicide is permissible. Physicians in Switzerland are therefore allowed to prescribe or supply a lethal dose of barbiturates with the explicit intention of enabling a patient they have examined to end his or her own life. However, most assisted suicides in Switzerland are conducted with the assistance of non-profit organisations [23]. These right-to-die organisations offer personal guidance to members suffering diseases with “poor outcome” or experiencing “unbearable suffering” who wish to die.

The two largest right-to-die organisations in Switzerland are Exit Deutsche Schweiz and Dignitas. Membership of Exit Deutsche Schweiz is available only for people living in Switzerland, whereas Dignitas is also open to people from abroad. Exit Deutsche Schweiz has about 50 000 members, and between 100 and 150 people die each year with the organisation’s assistance. In comparison, Dignitas has about 6000 members, most of whom live abroad. A member who decides to die must first undergo a medical examination. The physician then prescribes a lethal dose of barbiturates, and the drugs are stored at the Exit headquarters until the day of use. Usually, the suicide takes place at the patient's home. On the day the member decides to die, an Exit volunteer collects the medication and takes it to the patient's home. There, he or she hands the patient the fluid to swallow. If the patient is incapable of swallowing the barbiturate, it can be self-administered by gastrostomy or intravenously [4]. After the patient has died, the Exit volunteer notifies the police. All assisted suicides are reported to the authorities. Deaths through assisted suicide are recorded as unnatural deaths and investigated by the Institute of Legal Medicine.

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