MEMORANDUM

TO: Colorado Voters and the Press

FROM: Margaret Dore, Esq., MBA.
Choice is an Illusion, a nonprofit corporation

RE: Vote “No” on Prop. 106 (No Assisted Suicide, No Euthanasia)

DATE: October 25, 2016

INDEX

I. INTRODUCTION .......................................................... 1

II. FACTUAL AND LEGAL BACKGROUND ............................. 2
   A. Definitions: Physician-Assisted Suicide; Assisted Suicide; and Euthanasia ........................................ 2
   B. Withholding or Withdrawing Treatment Is Not Assisted Suicide or Euthanasia .................................. 2
   C. Most States Reject Assisted Suicide ............................ 3

III. PROP. 106 ................................................................. 4
   A. How Prop. 106 works ................................................. 4
   B. “Eligible” Persons May Have Years or Decades to Live ................................................................. 4
      1. If Colorado follows Oregon’s interpretation of “six months to live,” assisted suicide will be legalized for people with chronic conditions who have decades to live ........................................ 4
      2. Predictions of life expectancy can be wrong ................. 6
      3. Treatment can lead to recovery ............................... 7
C. Under Prop. 106, Patients Lose the Right to be Told of Options for Cure ............... 7

D. Prop. 106 Will Create New Paths of Elder Abuse .............................................. 9
   1. Elder abuse is a pervasive problem, which includes the abuse, financial exploitation and murder of older adults ............................................. 9
   2. Even if a patient struggled, 'who would know?' ........................................... 10

E. Prop. 106 Allows Euthanasia ................................................................. 11
   1. Generally accepted medical practice allows a doctor, or a person acting under the direction of a doctor, to administer medication to a patient ......................... 11
   2. Prop. 106 defines medical aid in dying as a medical practice .......................... 12
   3. Allowing someone else to administer the lethal dose to a patient is euthanasia .......... 13

F. Prop. 106 Will Allow Non-Voluntary Euthanasia ........................................... 13

G. Patients May Not Have the Ability to Rescind ............................................. 14

H. The Cause of Death on the Death Certificate Will Be a Terminal Illness .............. 15

I. If Colorado Follows Washington State, the Death Certificate Will List a Natural Death Without a Hint that the Actual Cause of Death was Assisted Suicide or Euthanasia .......... 16

J. Prop. 106 Does Not Prohibit Euthanasia ................................................... 17
IV. TRAUMA TO INDIVIDUALS AND FAMILIES ........................................ 18
   A. Physician-Assisted Suicide Can be Traumatic for Family Members .......... 18
   B. Trauma to Patients and Family Members in Oregon and Washington State .... 18
   C. "It Wasn’t the Father Saying That He Wanted to Die" .......................... 19
   D. The Thomas Middleton Case .................................................... 20

V. COLORADO DOES NOT NEED THE OREGON EXPERIENCE ......................... 21
   A. Suicide is Contagious ............................................................. 21
   B. Physician-Assisted Suicide in Oregon ........................................... 22
   C. The Young Man Wanted to Die Like Brittany Maynard ....................... 22
   D. In Oregon, Other Suicides Have Increased with Legalization of Physician-Assisted Suicide .... 23
   E. The Emotional and Financial Cost of Suicide in Oregon ...................... 24
   F. The Significance for Colorado ................................................. 25

VI. THE CLAIM THAT OREGON’S LAW WORKS CANNOT BE INDEPENDENTLY VERIFIED .......................... 25
   A. Any Study Claiming That Oregon’s Law is Safe, is Invalid .................... 25
   B. Oregon’s Data Cannot be Verified .............................................. 26
   C. Even Law Enforcement is Denied Access to Information ....................... 27
VII. COMPASSION & CHOICES

A. Compassion & Choices’ Mission Is to Promote Suicide


VIII. CONCLUSION

APPENDIX
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 Prop. 106.

Prop. 106 seeks to legalize "medical aid in dying," a euphemism for physician-assisted suicide and euthanasia. The term is also misleading. Prop. 106 is not limited to dying people. "Eligible" persons may have years, even decades, to live.

Prop. 106 is sold as assuring patient choice and control. The law is instead stacked against the patient. Passage will cause trauma to individuals and their families. Euthanasia is allowed. The suicide promotion group, Compassion & Choices, is the push behind passage. Don’t be fooled. I urge you to vote "No" on Prop. 106.

1 I am an elder law attorney licensed to practice law since 1986. I am also a former Law Clerk to the Washington State Supreme Court and the Washington State Court of Appeals. 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 nonprofit corporation opposed to assisted suicide and euthanasia. See www.margaretdore.com and www.choiceillusion.org My CV is attached hereto, at A-1 through A-4.

2 Prop. 106 is attached hereto at A-5 through A-15.

II. FACTUAL AND LEGAL BACKGROUND

A. Definitions: Physician-Assisted Suicide; Assisted Suicide; and Euthanasia

The American Medical Association (AMA) 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." The AMA gives this example:

[A] physician provides sleeping pills and information about the lethal dose, while aware that the patient may commit suicide.

"Assisted suicide" is a general term in which the assisting 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.

B. Withholding or Withdrawing Treatment Is Not Assisted Suicide or Euthanasia

Withholding or withdrawing treatment ("pulling the plug") is not assisted suicide or euthanasia if the purpose is to withhold or remove burdensome treatment, as opposed to an intent to kill the patient. More importantly, withdrawing treatment will not necessarily cause a patient's death. Consider this quote

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4 The AMA Code of Medical Ethics, Opinion 2.21, Physician-Assisted Suicide. (Attached hereto at A-17).
5 Id.
6 The AMA Code of Medical Ethics, Opinion 2.21, Euthanasia. (Attached hereto at A-18).
regarding a man removed from a ventilator:

[I]nstead of dying as expected, [he] slowly began to get better.\textsuperscript{7}

\section*{C. Most States Reject Assisted Suicide}

Physician-assisted suicide is legal in just four states: Oregon, Washington, Vermont and California. In Montana, a court case gives doctors who assist a suicide a potential defense to a homicide charge.\textsuperscript{8} In Montana, bills seeking to legalize physician-assisted suicide have repeatedly failed.\textsuperscript{9}

This year, the New Mexico Supreme Court reversed a lower court ruling recognizing a right to physician aid in dying, meaning physician assisted suicide.\textsuperscript{10} Physician-assisted suicide is no longer legal in New Mexico.

In the last six years, four states have strengthened their laws against assisted suicide. These states are Arizona, Louisiana, Georgia and Idaho.\textsuperscript{11}

\textsuperscript{7} Nina Shapiro, "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?" The Seattle Weekly, January 14, 2009. (Article attached at A-19; quote attached at A-21).

\textsuperscript{8} Baxter v. State, 354 Mont. 234, 251, ¶50 (2009).

\textsuperscript{9} The most recent bill to fail was SB 202 in 2015. See e.g., "SB 202 is Dead," Montanans Against Assisted Suicide, May 7, 2015, http://www.montanansagainstassistedsuicide.org/2015/05/sb-202-dead.html


\textsuperscript{11} See: Associated Press, "Brewer signs bill targeting assisted suicide," Arizona Capitol Times, April 30, 2014, attached at A-23 ("The proposal was prompted by a difficult prosecution stemming from a 2007 assisted suicide"); Associated Press, "La. assisted-suicide ban strengthened," The Daily Comet, April 24, 2012, attached at A-24); Georgia HB 1114 (attached hereto at A-25);
III. PROP. 106

A. How Prop. 106 Works

Prop. 106 has an application process to obtain a lethal dose to cause the patient’s death. Once the lethal dose is issued by the pharmacy, there is no oversight. No witness, not even a doctor is required to be present at the death.

B. “Eligible” Persons May Have Years or Decades to Live

1. If Colorado follows Oregon’s interpretation of “six months to live,” assisted suicide will be legalized for people with chronic conditions who have decades to live

Prop. 106 applies to patients whose terminal illness is incurable and irreversible and which has been medically confirmed and will within reasonable medical judgment, result in death “within six months.”

and Margaret Dore, “Idaho Strengthens Law Against Assisted Suicide,” Choice is an Illusion, July 4, 2011, at A-26 (“Governor Butch Otto signed Senate Bill 1070 into law. The bill explicitly provides that causing or aiding a suicide is a felony”).

Prop. 106 states:

"Qualified individual“ means a terminally ill adult with a prognosis of six months or less . . . .

"Prognosis of six months or less“ means a prognosis resulting from a terminal illness that the illness will, within reasonable medical judgment, result in death within six months and which has been medically confirmed. . . .

"Terminal illness" means an incurable and irreversible illness that will, within reasonable medical judgment, result in death.

Oregon’s law applies to terminal patients who meet these same criteria. Oregon’s law 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. (Emphasis added).\(^\text{13}\)

In Oregon, these criteria are interpreted to include chronic conditions such as "chronic lower respiratory disease" and "diabetes mellitus" (better known as "diabetes").\(^\text{14}\) Indeed, these conditions are listed in Oregon government reports as "underlying illnesses" sufficient to justify assisted suicide.\(^\text{15}\)

One reason that chronic conditions qualify for assisted suicide is that the six months to live is determined without treatment. Oregon doctor, William Toffler, explains:

In Oregon, people with chronic conditions are "terminal" [and eligible for assisted suicide] if without their medications, they have less than six months [to] live.\(^\text{16}\)

Dr. Toffler elaborates:

This is significant when you consider that a typical insulin-dependent 20 year-old-year will live less than a month without insulin.

Such persons, with insulin, are likely to have decades to live; in fact, most diabetics have a normal life span given appropriate control of their blood sugar. (Emphasis and

\(^\text{13}\) Or. Rev. Stat. § 127.800 s.1.01.(12) at A-27.


\(^\text{15}\) Id. See also Toffler "Exhibit B," attached hereto at A-35 and A-36.

If Colorado enacts Prop. 106 and follows Oregon’s interpretation of “six months” to live, assisted suicide will be legalized for people with chronic conditions such as insulin dependent diabetes. As noted by Dr. Toffler, such persons can have “decades to live.”

2. Predictions of life expectancy can be wrong

Patients may also have years to live due to misdiagnosis and the fact that predicting life expectancy is not an exact science. Consider John Norton, diagnosed with ALS (Lou Gehrig’s disease) at age 18 or 19. 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.
3. Treatment can lead to recovery

Consider also Oregon resident, Jeanette Hall, who was diagnosed with cancer in 2000 and wanted to use Oregon’s law.23 Her doctor convinced her to be treated instead.24 In a June 2016 declaration, she states:

This July, it will be 16 years since my diagnosis. If [my doctor] had believed in assisted suicide, I would be dead.25

C. Under Prop. 106, Patients Lose the Right to be Told of Options for Cure

Under current Colorado law, patients making a health care decision have the right to “informed consent.”26 This includes the right to be fully informed:

not only of risks that might occur from the particular treatment in question, but also any alternative treatments . . . (Emphasis added).27

This would include treatments for cure, for example, chemotherapy or radiation to cure cancer.

Under Prop. 106, a patient instead has the right to make an “informed decision,” which is defined as follows:

23 Declaration of Kenneth Stevens, MD, 1/06/16, attached at A-50, ¶¶ 3-7; and Declaration of Jeanette Hall, 6/30/16, attached at A-51.
24 Id.
26 Williams v. Boyle, 72 P.3d 392, 398 (2003) and C.R.S.A. § 15-18.7-102(7) (“’Decisional capacity’ means the ability to provide informed consent . . .”)
"Informed decision" means a decision that is:

made after the attending physician fully informs the individual of:

all feasible alternatives or additional treatment opportunities, including comfort care, palliative care, hospice care, and pain control. (Emphasis added).\(^{28}\)

With this language, the patient’s right to be told about options for cure is no longer clear because options for cure are not specifically listed. Per the rule of statutory construction, *ejusdem generis*, a patient does not have this right.

*Ejusdem generis* is Latin for "of or as the same kind."\(^ {29} \)

Per the rule, a general reference in a statute only applies to the same kind of things specifically listed.\(^ {30} \) The rule is relevant here because Prop. 106 has a general reference to "all feasible alternatives or additional treatment opportunities," and also refers to specific alternatives:

comfort care, palliative care, hospice care, and pain control.\(^ {31} \)

Per the rule, the specific alternatives, all having to do with death and dying, limit "all feasible alternatives or additional

\(^{28}\) Prop. 106, § 25-48-102(5)(c)(V), which can be viewed infra at A-5 & A-6.

\(^{29}\) [https://en.oxforddictionaries.com/definition/ejusdem_generis](https://en.oxforddictionaries.com/definition/ejusdem_generis)

\(^{30}\) Id. ("Denoting a rule for interpreting statutes and other writings by assuming that a general term describing a list of specific terms denotes other things that are like the specific elements.")

treatment opportunities” to those concerning death and dying. Patients lose the right to be told of options for cure.

D. Prop. 106 Will Create New Paths of Elder Abuse

1. Elder abuse is a pervasive problem, which includes the abuse, financial exploitation and murder of older adults

There are more than 11,000 cases of adult abuse, including elder abuse, reported each year in Colorado. Elder abuse perpetrators are often family members. They typically start out with small crimes, such as stealing jewelry and blank checks, before moving on to larger items or to coercing victims to sign over deeds to their homes, change their wills or liquidate their assets. Victims may even be murdered. Amy Mix, of the AARP Legal Counsel of the Elderly, states:

[D]efendants are family members, lots are friends, often people who befriend a senior through church . . . . We had a senior victim who had given her life savings away to some scammer who told her that she’d won the lottery and would have to pay the taxes ahead of time. . . . The scammer found the victim using information in her husband’s


34 MetLife, supra, at p. 14.

obituary.\footnote{36}

Elder abuse is prevalent in part because victims do not report it. “One study estimates that only 1 in 14 cases ever comes to the attention of the authorities.”\footnote{37} In another study, it was 1 out of 25 cases.\footnote{38} According to Denver Human Services, victims are: afraid to speak up, worried about retaliation and embarrassed.\footnote{39} Another explanation:

[They] don’t want to report their own child as an abuser.\footnote{40}

2. “Even if a patient struggled, ‘who would know?’”

Prop. 106 has no required oversight at the death.\footnote{41} In addition, the drugs typically used are water and alcohol soluble, such that they can be administered to a restrained or sleeping person without consent.\footnote{42} Alex Schadenberg, Executive Director

\footnote{37} See e.g., National Center on Elder Abuse, Administration on Aging, \url{http://www.ncea.aoa.gov/library/Data}, p.2
\footnote{38} Id.
\footnote{39} Denver Human Services, supra.
\footnote{40} “Adult Abuse Defined,” DC Department of Human Services, as of January 25, 2016. See \url{http://dhs.dc.gov/service/adult-abuse}, attached at A-54.
\footnote{41} Prop. 106 in its entirety, attached hereto at A-5 to A-15.
\footnote{42} The drugs used for assisted suicide in Oregon and Washington include Secobarbital and Pentobarbital (Nembutal), which are water and alcohol soluble, such that they can be injected without consent. See “Secobarbital Sodium Capsules, Drugs.Com,” at \url{http://www.drugs.com/pr/secobarbital-sodium.html} and \url{http://www.drugs.com/pro/nembutal.html} See also Oregon’s government report, page 6, attached at A-35 (listing these drugs).
for the Euthanasia Prevention Coalition, puts it this way:

With assisted suicide laws in Washington and Oregon [and with Prop. 106], perpetrators can . . . take a "legal" route, by getting an elder to sign a lethal dose request. Once the prescription is filled, there is no supervision over administration . . . . Even if a patient struggled, "who would know?" (Emphasis added). 43

Elder abuse is already a problem in Colorado. Passage of Prop. 106 will only make it worse.

E. Prop. 106 Allows Euthanasia

1. Generally accepted medical practice allows a doctor, or a person acting under the direction of a doctor, to administer medication

Generally accepted medical practice allows a doctor or a person acting under the direction of a doctor, to administer medication to a patient. 44

A person acting under the direction of a doctor can be a


44 Dr. Kenneth Stevens testifies:

Generally accepted medical practice allows a doctor, or a person acting under the direction of a doctor, to administer prescription drugs to a patient. Common examples of persons acting under the direction of a doctor include: nurses and other healthcare professionals who act under the direction of a doctor to administer drugs in a hospital setting; parents who act under the direction of a doctor to administer drugs to their children in a home setting; and adult children who act under the direction of a doctor to administer drugs to their parents in a home setting. (Emphasis added).

Declaration of Dr. Kenneth Stevens, MD, 01/06/16, at A-50, ¶10.

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healthcare professional or a non-medical person. A common example of a non-medical person is a mother who administers medication to her sick child in a home setting under the direction of a doctor. Another common example is an adult child who administers a prescription drug to his or her parent in a home setting. This is normal medical practice.

2. Prop. 106 defines medical aid in dying as a medical practice

Prop. 106 defines medical aid in dying as the "medical practice" of prescribing "medical aid-in-dying medication" (the lethal dose) that a patient "may choose to self-administer." Prop. 106 states:

"Medical aid in dying" means the medical practice of a physician prescribing medical aid-in-dying medication to a qualified individual that the individual may choose to self-administer to bring about a peaceful death. (Emphasis added).

Prop. 106 does not say that administration of the lethal dose "must" be by self-administration.

With self-administration not mandatory and "medical aid in dying" a "medical practice," a doctor or other person acting

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45 Id.
46 Id.
47 Id.
48 Id.
under the direction of a doctor is allowed to administer the lethal dose (medication) to the patient.\textsuperscript{51} In other words, the administering person could be the doctor or an adult child acting under the doctor’s direction.\textsuperscript{52} Prop. 106 allows doctors and adult children to administer the lethal dose.

3. **Allowing someone else to administer the lethal dose to a patient is euthanasia**

Allowing someone else to administer the lethal dose is euthanasia under generally accepted medical terminology. The AMA Code of Ethics, Opinion 2.21, states:

\textit{Euthanasia is the administration of a lethal agent by another person to a patient} . . . . \textit{(Emphasis added)}.\textsuperscript{53}

F. **Prop. 106 Will Allow Non-Voluntary Euthanasia**

On July 1, 2016, the New Mexico Supreme Court issued its decision reversing the lower court ruling, which had recognized a right to physician aid in dying, meaning physician-assisted suicide.\textsuperscript{54} The Supreme Court’s reasons for reversal included that recognizing a “right” to physician aid in dying would lead to euthanasia, including via a surrogate decision maker which would not necessarily be voluntary. The 5-0 decision states:

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\textsuperscript{51} Cf. Declaration of Kenneth Stevens, supra, at A-50, \S 10.

\textsuperscript{52} Id.

\textsuperscript{53} The AMA Code of Medical Ethics, Opinion 2.21, Euthanasia, (Attached hereto at A-17).

\textsuperscript{54} Morris v. Brandenburg, supra.
We agree with the legitimate concern that recognizing a right to physician aid in dying will lead to voluntary or involuntary euthanasia because if it is a right, it must be made available to everyone, even when a duly appointed surrogate makes the decision, and even when the patient is unable to self-administer the life-ending medication. . . (Emphasis added). \(^5^5\)

This reasoning is relevant here because Prop. 106 makes requesting medical aid in dying a “right.” Prop. 106, Section 25-48-103, is titled:

**Right to Request Medical Aid-in-dying Medication.** (Emphasis added). \(^5^6\)

The Section also states:

The right to request medical aid-in-dying medication does not exist because of age or disability. (Emphasis added). \(^5^7\)

With this “right,” euthanasia via surrogate decision making will be allowed. Voluntariness will not be assured.

**G. The Patient May Not Have the Ability to Rescind**

Prop. 106 gives patients a right to rescind the lethal dose request. \(^5^8\) The patient, as a practical matter, may not have the

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\(^5^5\) Id., quote attached at A-55.

\(^5^6\) Attached hereto at A-7.

\(^5^7\) Id.

\(^5^8\) Prop. 106, § 25-48-105, Right to rescind the request - right to offer opportunity to rescind,” states:

1. At any time, an individual may rescind his or her request for medical aid-in-dying medication without regard to the individual’s mental state.
2. An attending physician shall not write a
ability to do so. Consider, for example, a patient who obtained the lethal dose without necessarily intending to take it ("just in case things get bad"). If the patient would later become incompetent, be sedated, or simply be sleeping, he or she would not have the ability to rescind. Someone else would be able to administer the lethal dose to the patient, in private, without consent.

H. The Cause of Death on the Death Certificate Will Be a Terminal Illness

Prop. 106 says that when a death occurs "in accordance" with Prop. 106, the cause of death "shall" be listed on the death certificate as a terminal illness. § 24-48-109(2) states:

When a death has occurred in accordance with this article, the cause of death shall be listed as the underlying terminal illness . . . (Emphasis added).

Definitions for "accordance" include "in the spirit of," meaning "in thought or intention though not physically." So, if an assisting person has a thought or intention to comply with Prop. 106, but doesn’t do it, that’s enough to require the death certificate to list a terminal illness.

prescription for medical aid-in-dying medication under this article unless the attending physician offers the qualified individual an opportunity to rescind the request for the medical aid-in-dying medication.

Attached hereto at A-8.

Attached hereto at A-10.

See definitions for "accordance" and "in the spirit," attached hereto at A-56 and A-57.
The significance of requiring a terminal illness to be listed as the cause of death on the death certificate is that it creates a legal inability to prosecute: The official required cause of death is a terminal illness (not murder) as a matter of law.

I. If Colorado Follows Washington State, the Death Certificate Will List a Natural Death Without Disclosing that the Actual Cause of Death was Assisted Suicide or Euthanasia

Prop. 106 states:

Actions taken in accordance with this article do not, for any purpose, constitute suicide, assisted suicide, mercy killing, homicide, or elder abuse under the “Colorado Criminal Code”, as set forth in title 18, C.R.S. (Emphasis added).\(^6\)

In Washington State, similar language requires the death certificate to list a natural death without even a hint that the actual cause of death was assisted suicide or euthanasia.

Washington’s “Death Certificate Instructions for Medical Examiners, Coroners and Prosecuting Attorneys,” state:

Washington’s [law] 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 [Washington’s law], 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.

\(^6\) Attached heretofore at A-15.
The manner of death must be marked as "Natural."

3. The cause of death section may not contain any language that indicates that [Washington's law] was used, such as:
   a. Suicide
   b. Assisted suicide
   c. Physician-assisted suicide
   d. Death with Dignity
   e. I-1000 [Washington's law was passed by I-1000]
   f. Mercy killing
   g. Euthanasia
   h. Secobarbital or Seconal
   i. Pentobarbital or Nembutal (Emphasis added.)

If Colorado enacts Prop. 106 and follows Washington's example, death certificates will list a natural death without disclosing that the actual cause of death was assisted suicide or euthanasia. There will be an official legal cover up.

**J. Prop. 106 Does Not Prohibit Euthanasia**

Prop. 106 appears to prohibit euthanasia, also known as "mercy killing" and "lethal injection." This apparent prohibition is, however, defined away in the next sentence.

Prop. 106 states:

Nothing in this article authorizes a physician or any other person to end an individual's life by lethal injection, mercy killing, or euthanasia.

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62 Attached hereto at A-58.

63 See definition at A-59 ("mercy killing" is "another term for euthanasia") and at A-60 ("lethal injection" is "the act or instance of injecting a drug for purposes of capital punishment or euthanasia").
IV. TRAUMA TO INDIVIDUALS AND FAMILIES

A. Physician-Assisted Suicide Can Be Traumatic for Family Members

In 2012, a European research study addressed trauma suffered by persons who witnessed legal physician-assisted suicide in Switzerland. The study found that one out of five family members or friends present at an assisted suicide was traumatized. These people, experienced full or sub-threshold PTSD (Post Traumatic Stress Disorder) related to the loss of a close person through assisted suicide.

B. Trauma to Patients and Family Members in Oregon and Washington State

In Oregon and Washington State, I have had two cases where there was trauma suffered in connection with legal assisted suicide. In the first case, one side of the family wanted my client’s father to take the lethal dose, while the other side did


66 Id.

67 To protect the privacy of the persons involved, I am not identifying which case occurred in which state.
The father spent the last months of his life caught in the middle and torn over whether or not he should kill himself. My client, his adult daughter, was severely 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 at a “suicide party” for my client’s father told my client that his father had refused to take the lethal dose when it was delivered, stating, "You're not killing me, I'm going to bed." The man also told my client that his father took the lethal dose the next day when he (the father) was intoxicated on alcohol. The man who related this information later changed his story.

My client, although he was not present at the death, was traumatized over the incident, and also by the sudden loss of his father.

C. "It Wasn’t the Father Saying That He Wanted to Die"

Consider also this letter from my former client, Juan Carlos Benedetto:

My wife and I operate two adult family homes in Washington State where assisted suicide is legal. . . .

Our assisted suicide law was passed via a ballot initiative in November 2008. During the election, that law was promoted as a right of individual people to make their own choices. That has not been our experience. We have also noticed a shift in the attitudes of doctors and nurses towards our typically
elderly clients, to eliminate their choices.

Four days after the election, an adult child of one of our clients asked about getting the pills (to kill the father). It wasn't the father saying that he wanted to die. . . .

Someday, we too will be old. I, personally, want to be cared for and have my choices respected. I, for one, am quite uncomfortable with these developments. Don't make our mistake.68

D. The Thomas Middleton Case

In Oregon, there is the Thomas Middleton case in which physician-assisted suicide was used to facilitate a fraud against an elderly man. An article from KTVZ.com states:

State and court documents show Middleton, who suffered from Lou Gehrig's disease, moved into Sawyer's home in July 2008, months after naming her trustee of his estate . . . . Middleton deeded his home to the trust and directed her to make it a rental until the real estate market improved.

Instead, Sawyer signed documents that month to list the property for sale, two days after Middleton died by physician-assisted suicide. The property sold . . . for more than $200,000[, which] . . . was deposited into an account for [Sawyer's benefit]. (Emphasis added).69

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68 Letter from Juan Carlos Benedetto to the Montana Board of Medical Examiners, posted July 1, 2012 on Montanans Against Assisted Suicide. (Copy attached at A-62).

V. COLORADO DOES NOT NEED THE OREGON EXPERIENCE

Since the passage of Oregon's law allowing physician-assisted suicide, other suicides in Oregon have steadily increased. This is consistent with a suicide contagion in which the legalization and promotion of physician-assisted suicide has encouraged other suicides.

A. Suicide is Contagious

It is well known that suicide is contagious. A famous example is Marilyn Monroe.\textsuperscript{70} Her widely reported suicide was followed by "a spate of suicides."\textsuperscript{71}

With the understanding that suicide is contagious, groups such as the National Institute of Mental Health and the World Health Organization have developed guidelines for the responsible reporting of suicide, to prevent contagion. Key points include that the risk of additional suicides increases:

\begin{quote}
[W]hen the story explicitly describes the suicide method, uses dramatic/graphic headlines or images, and repeated/extensive coverage sensationalizes or glamorizes a death.\textsuperscript{72}
\end{quote}


\textsuperscript{71} Id., page 1.

B. Physician-Assisted Suicide in Oregon

In Oregon, prominent cases of physician-assisted suicide include Lovelle Svart and Brittany Maynard.

Lovelle Svart died in 2007. The Oregonian, which is Oregon’s largest paper, violated the recommended guidelines for the responsible reporting of suicide by explicitly describing her suicide method and by employing “dramatic/graphic images.” Indeed, visitors to the paper’s website were invited “to hear and see when Lovelle swallowed the fatal dose.” There are still photos of her online, lying in bed, dying.

Brittany Maynard reportedly died from physician-assisted suicide in Oregon, on November 1, 2014. Contrary to the recommended guidelines, there was “repeated/extensive coverage” in multiple media, worldwide. This coverage is ongoing, including in Colorado, where her image is being used to promote Prop. 106.

C. The Young Man Wanted to Die Like Brittany Maynard

A month after Ms. Maynard’s death, Will Johnston MD was

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74 Id.
75 Id., at A-67 & A-68.
76 The worldwide coverage of Ms. Maynard in multiple media started with an exclusive cover story in People Magazine. A copy of the cover is attached hereto at A-69. Other media included TV, radio, print, web and social media.
presented with a twenty year old patient during an emergency appointment.\textsuperscript{77} The young man, who had been brought in by his mother, was physically healthy, but had been acting oddly and talking about death.\textsuperscript{78}

Dr. Johnston asked the young man if he had a plan.\textsuperscript{79} The young man said "yes," that he had watched Ms. Maynard' video.\textsuperscript{80} He said that he was very impressed with her and that he identified with her and that he thought it was a good idea for him to die like her.\textsuperscript{81} He also told Dr. Johnston that after watching the video he had been surfing the internet looking for suicide drugs.\textsuperscript{82} Dr. Johnston’s declaration states:

He was actively suicidal and agreed to go to the hospital, where he stayed for five weeks until it was determined that he was sufficiently safe from self-harm to go home.\textsuperscript{83}

The young man had wanted to die like Brittany Maynard.

D. In Oregon, Other Suicides Have Increased with Legalization of Physician-Assisted Suicide

Oregon government reports show the following positive

\textsuperscript{77} Declaration of Williard Johnston, MD, May 24, 2015. (Attached hereto at A-70 to A-71).

\textsuperscript{78} Id.

\textsuperscript{79} Id.

\textsuperscript{80} Id.

\textsuperscript{81} Id.

\textsuperscript{82} Id.

\textsuperscript{83} Id.
correlation between the legalization of physician-assisted suicide and an increase in other suicides. Per the reports:

Oregon legalized physician-assisted suicide “in late 1997.”

By 2000, Oregon’s conventional suicide rate was "increasing significantly." By 2007, Oregon's conventional suicide rate was 35% above the national average.

By 2010, Oregon's conventional suicide rate was 41% above the national average.

By 2012, Oregon's conventional suicide rate was 42% above the national average.

E. The Emotional and Financial Cost of Suicide in Oregon

The most recent (conventional) suicide report by the State of Oregon, describes the emotional and financial cost of suicide in Oregon, which is a smaller population state than Colorado. The report states:

The financial and emotional impacts of suicide on family members are devastating and long-lasting.

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84 Oregon Death with Dignity report, attached hereto at A-31.


88 Id.
In 2012 alone, self-inflicted injury hospitalization charges in Oregon exceeded $54 million; and the estimate of total lifetime cost of suicide in Oregon was over $677 million. The loss to families and communities broadens the impact of each death. (Footnotes omitted)

F. The Significance for Colorado

Colorado already has a higher suicide rate than Oregon. In 2015, there were 1,093 suicides among Colorado residents. This is the highest number of suicide deaths ever recorded in Colorado. To compare,

the number of suicide deaths in [Colorado in] 2015 exceeded the number of deaths from homicide (205), motor vehicle crashes (586), influenza and pneumonia (658), breast cancer (585) and diabetes (884).

If Prop. 106 is enacted and Colorado repeats the Oregon experience, the situation will get worse.

VI. THE CLAIM THAT OREGON’S LAW WORKS CANNOT BE INDEPENDENTLY VERIFIED

A. Any Studies Claiming That Oregon’s Law is Safe, are Invalid

During a Montana legislative hearing in 2011, State Senator Jeff Essmann made the following observation about Oregon’s law,

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99 Id., attached at A-77.

90 CDC Centers For Disease Control and Prevention, Age Adjusted Suicide Rates by State, US, 2012. (Attached hereto at A-79)


92 Id.

93 Id.
that any study claiming that it's safe is invalid. He observed:

[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 [taken on a voluntary basis].

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. (Emphasis added).\(^9^4\)

**B. Oregon’s Data Cannot be Verified**

The State of Oregon (the Oregon Health Authority) publishes annual statistical reports about the people who died under Oregon’s law.\(^9^5\) Much of this data cannot be verified due to a lack of record keeping and the destruction of source documentation. According to the Oregon Health Authority:

> The identity of participating physicians is coded, but the identity of individual patients is not recorded in any manner. Approximately one year from the publication of the Annual Report, all source documentation is destroyed. (Emphasis added).\(^9^6\)

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\(^9^5\) The most recent annual statistical report for 2015 is attached to Dr. Toffler’s declaration, which is submitted herewith at A-30 through A-36.

C. Even Law Enforcement is Denied Access to Information

In Oregon, even law enforcement is denied access to information about cases under Oregon’s law. Alicia Parkman, Mortality Specialist for the Oregon Health Authority, states:

We have been contacted by law enforcement and legal representatives in the past, but have not provided identifying information of any type. (Emphasis added).97

Oregon attorney Isaac Jackson provides a similar account:

The [police] officer’s report . . . describe[d] that he was unable to get . . . information from the Oregon Health Authority . . . . 98

VII. COMPASSION & CHOICES

A. Compassion & Choices’ Mission is to Promote Suicide

The push to enact Prop. 106 is being spearheaded by the suicide advocacy group, Compassion & Choices.

Compassion & Choices was formed in 2004 as the result of a merger/takeover of two other organizations.99 One of these

97 E-mail from Alicia Parkman, Mortality Research Analyst, Oregon Health Authority, to Margaret Dore, January 4, 2012, attached hereto at A-81 to A-82. Also at https://choiceisanillusion.files.wordpress.com/2016/10/parkman-email.pdf

98 Attorney Jackson’s Declaration of Testimony is attached hereto at A-83 to 88. The quote is attached hereto at A-84. See also https://choiceisanillusion.files.wordpress.com/2016/10/isaac-jackson-decl.pdf

organizations was the former Hemlock Society, originally formed by Derek Humphry.\footnote{Id.}

In 2011, Humphry was the keynote speaker at Compassion & Choices’ annual meeting here in Washington State.\footnote{Id.} He was also in the news as a promoter of mail-order suicide kits.\footnote{Compassion & Choices Newsletter, regarding Humphry’s October 22, 2011 speaking date, at https://choiceisanillusion.files.wordpress.com/2016/10/humphry-keynote.pdf (Attached hereto at A-91.)} This was after a depressed 29 year old man used one of the kits to kill himself.\footnote{See Jack Moran, “Police kick in door in confusion over suicide kit,” The Register-Guard, September 21, 2011 (”A spotlight was cast on the mail-order suicide kit business after a 29-year-old Eugene man committed suicide in December using a helium hood kit. The Register-Guard traced the $60 kit to [the company, which] has no website and does no advertising; clients find [the] address through the writings of Humphry.”)(Emphasis added) Id.} Compassion & Choices’ newsletter, promoting Humphry’s presentation, references him as “the father of the modern movement for choice.”\footnote{Id.} Compassion & Choices’ mission is to promote suicide.

B. “Beware of Vultures,” Compassion & Choices’ Mission is Financial, Involving “Millions, Maybe Billions of Dollars”

I found myself wondering, "Where does all the lobby money come from?" If it really is about a few terminally ill people who might seek help ending their suffering, why was more money spent on promoting assisted suicide than any other issue in Montana?

Could it be that convincing an ill person to end [his or her] life early will help health insurance companies save a bundle on what would have been ongoing medical treatment? . . . How much financial relief would pension systems see? . . . Would vulnerable old people be encouraged to end their [lives] unnecessarily early by those seeking financial gain?

When considering the financial aspects of assisted suicide, it is clear that millions, maybe billions of dollars, are intertwined with the issue being marketed as "Compassion and Choices." Beware.106

VIII. CONCLUSION

Prop. 106 is sold as providing choice and control to individual patients. Patients instead lose their right to be told about options for cure. Euthanasia is legalized. The law allows adult children to kill their parents. And it’s legal.

Prop. 106, regardless, has a complete lack of oversight at the death. Even if the patient struggled, who would know?

I urge you to vote No on Prop. 106. Don’t make Oregon and Washington’s mistake.

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Respectfully Submitted,

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