

## **I. INTRODUCTION**

I am an attorney in Washington State where assisted suicide and euthanasia are legal.<sup>1</sup> Our law is based on a similar law in Oregon. Both laws are similar to the proposed "Medical Aid in Dying" Act.<sup>2</sup>

"Aid in Dying" is a traditional euphemism for physician-assisted suicide and euthanasia.<sup>3</sup> The proposed act legalizes physician-assisted suicide and allows euthanasia as long as actions are taken in "accordance" with the act.

The act applies to people with years or decades to live. Purported patient protections and government oversight are a sham. The act is a recipe for elder abuse. I urge you to vote "No" on SB 1129 SD1. Don't make Washington and Oregon's mistake.

## **II. ASSISTED SUICIDE AND EUTHANASIA**

### **A. Physician-Assisted Suicide**

The American Medical Association (AMA) defines physician-assisted suicide as occurring when "a physician facilitates a

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<sup>1</sup> I am an elder law and appellate attorney licensed to practice law in Washington State since 1986. I am also a former Law Clerk to the Washington State Supreme Court. I am president of Choice is an Illusion, a nonprofit corporation opposed to assisted suicide and euthanasia. My CV is attached hereto in the Appendix at A-1 to A-4. See also [www.margaretdore.com](http://www.margaretdore.com), [www.choiceillusion.org](http://www.choiceillusion.org) and [www.hawaiiagainstassistedsuicide.org](http://www.hawaiiagainstassistedsuicide.org)

<sup>2</sup> The proposed act is contained in SB 1129 SD1, which is attached hereto in the Appendix at A-101 to A-117. The proposed act begins at A-102.

<sup>3</sup> See, for example, this article from 1992: Maria T. Celocruz, "'Aid-in-Dying': Should we decriminalize Physician-Assisted Suicide and Physician-Committed Euthanasia?," American Journal of Law and Medicine." (Attached hereto at A-21)

patient's death by providing the necessary means and/or information to enable the patient to perform the life-ending act."<sup>4</sup> The AMA gives this example:

[A] physician provides sleeping pills and information about the lethal dose, while aware that the patient may commit suicide.<sup>5</sup>

"Assisted suicide" is a general term in which the assisting person is not necessarily a physician.

## **B. Euthanasia**

Euthanasia, which is also known as "mercy killing" and "lethal injection," is the administration of a lethal agent by another person" to kill that person.<sup>6</sup>

Allowing a person to die by withdrawing medical measures ("pulling the plug") may also be euthanasia.<sup>7</sup> The term is, however, not appropriate if the purpose of the withdrawal is to remove burdensome treatment, as opposed to an intent to kill the patient. More importantly, the patient will not necessarily die. Consider this quote from Washington State regarding a man removed from a ventilator:

[I]nstead of dying as expected, [he] slowly

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<sup>4</sup> The AMA Code of Medical Ethics, 2016, Opinion 5.7, "Physician-Assisted Suicide. (Attached hereto at A-5)

<sup>5</sup> Id.

<sup>6</sup> AMA Code of Medical Ethics, 2016, Opinion 5.8, "Euthanasia," attached hereto at A-5 (lower half of the page). See also definitions of "mercy killing" and "lethal injection" attached hereto at A-6 and A-7.

<sup>7</sup> See definition of "euthanasia" at A-6 (middle of the page).

began to get better.<sup>8</sup>

### **III. THE COMMITTEE REPORT**

On February 17, 2017, the Senate Committee on Commerce, Consumer Protection and Health issued a report recommending passage of the act as amended.<sup>9</sup> The report, however, is based on false premises, for example, that the lethal dose is required to be self-administered, which is not true. This topic and more are discussed below.

### **IV. THE ACT APPLIES TO PEOPLE WITH YEARS OR DECADES TO LIVE**

The proposed act applies to persons with a "terminal disease," meaning those predicted to have less than six months to live.<sup>10</sup> Such persons may actually have years or decades to live. This is true for three reasons:

#### **A. Treatment Can Lead to Recovery**

In 2000, Oregonian Jeanette Hall was given a terminal diagnosis of six months to a year to live, which was based on her not being treated for cancer.<sup>11</sup> Hall made a settled decision to use Oregon's law, but her doctor convinced her to be treated instead. In a 2016 declaration, she states:

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<sup>8</sup> 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*, 01/14/09; article at A-18, quote at A-20.

<sup>9</sup> The report is attached hereto at A-117.

<sup>10</sup> See SB 1129 SD1, Section 2, § -1. (Attached hereto at A-103 to A-104).

<sup>11</sup> Affidavit of Kenneth R. Stevens, JR., MD, ¶¶ 3-7, at A-33 to A-34.

This July, it will be 16 years since my diagnosis. If [my doctor] had believed in assisted suicide, I would be dead.<sup>12</sup>

### **B. Predictions of Life Expectancy Can Be Wrong**

Patients may also have years to live due to misdiagnosis and because predicting life expectancy is not an exact science.<sup>13</sup>

Consider John Norton, diagnosed with ALS (Lou Gehrig's disease) at age 18 or 19.<sup>14</sup> He was told that he would get progressively worse (be paralyzed) and die in three to five years.<sup>15</sup> Instead, the disease progression stopped on its own.<sup>16</sup> 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.<sup>17</sup>

### **C. In Oregon, "Eligible" Terminal Diseases Include Chronic Conditions Such as Insulin Dependant Diabetes**

The proposed act defines "terminal disease," as follows:

"Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical

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<sup>12</sup> Declaration of Jeanette Hall, ¶ 4, attached hereto at A-40.

<sup>13</sup> See e.g., Jessica Firger, "12 million Americans misdiagnosed each year, CBS NEWS, 4/17/14 (attached at A-41); and Nina Shapiro (at A-18 to A-20).

<sup>14</sup> Affidavit of John Norton, August 15, 2012, attached at A-42 to A-44, ¶3.

<sup>15</sup> Id., ¶ 1.

<sup>16</sup> Id., ¶ 4.

<sup>17</sup> Id., ¶ 5.

judgment, produce death within six months.<sup>18</sup>

Oregon's law has an identical definition, as follows:

"Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six months.<sup>19</sup>

In Oregon, this identical definition is interpreted to include chronic conditions such as "chronic lower respiratory disease" and "diabetes mellitus" (better known as diabetes). This is because the six months to live is determined without treatment.<sup>20</sup> Oregon doctor, William Toffler, explains:

In Oregon, people with chronic conditions are "terminal," if without their medications, they have less than six months [to] live. (Emphasis added).<sup>21</sup>

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 spacing changed).<sup>22</sup>

If the proposed act is not rejected and Hawaii follows

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<sup>18</sup> SB 1129 SD1, Section 2, § -1, attached hereto at A-103 to A-104.

<sup>19</sup> Or. Rev. Stat. 127.800 s.1.01(12), attached hereto at A-47.

<sup>20</sup> These conditions are listed in Oregon government reports concerning its law. See, for example, report excerpts attached hereto at A-53 & A-54.

<sup>21</sup> Declaration of William Toffler, MD, ¶ 4, attached at A-45 to A-46.

<sup>22</sup> Id., at A-46.

Oregon's interpretation of "terminal disease," assisted suicide and euthanasia will be allowed for people with chronic conditions such as insulin dependent diabetes. As noted by Dr. Toffler, such persons can have "decades to live."<sup>23</sup>

**V. IN OREGON AND OTHER STATES, THERE IS PRESSURE TO EXPAND "ELIGIBILITY"**

If the proposed act is enacted, there will likely be pressure to expand "eligibility" over time. I say this due to a 2015 Oregon bill, which sought to expand Oregon's six months to live criteria to one year.<sup>24</sup> Similarly, in New Hampshire, there have been proposed bills, in 2009 and 2014, which included a terminal criteria of "premature death." The bills stated:

"Terminal condition" means an incurable and irreversible condition, for the end stage of which there is no known treatment which will alter its course to death, and which, in the opinion of the attending physician and consulting physician competent in that disease category, will result in premature death. (Emphasis added).<sup>25</sup>

The New Hampshire bills, if enacted, would have rendered functioning working people, with disabilities and chronic conditions such as HIV/AIDS, "terminal" for the purpose of assisted suicide and euthanasia. In 2009, Stephen Drake, of the

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<sup>23</sup> Id.

<sup>24</sup> Oregon House Bill 3337, 2015 legislative session, at <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/HB3337/Introduced> (Attached hereto at A-22 and A-23)

<sup>25</sup> New Hampshire bills HB 304 in 2009 and HB 1325 in 2014.

disability rights group, Not Dead Yet, wrote:

Read that definition carefully, terminality is defined as having a condition that is irreversible and will result in a premature death. My partner would fit that definition. Many people I work with also fit the definition. . . . (Emphasis added).<sup>26</sup>

Drake also stated:

This bill, if passed, will guarantee an easy suicide to just about any person with diagnoses of quadriplegia, spinal muscular atrophy, HIV/AIDS, and many other conditions disabilities.<sup>27</sup>

Finally, in Washington State, in 2012, we had an article in our largest paper, which contained a suggestion of euthanasia for people without funds in their old age.<sup>28</sup> So you worked hard all your life, paid taxes and then your pension plan went broke, this is how society will pay you back?

## **VI. HOW THE PROPOSED ACT WORKS**

The proposed act has an application process to obtain the lethal dose, which includes a written lethal dose request form with two required witnesses. One of the witnesses is allowed to be the patient's heir who will financially benefit from the patient's death.<sup>29</sup>

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<sup>26</sup> Stephen Drake, "New Hampshire Poised to Redefine 'Terminally Ill' - to PWDs [Persons With Disabilities] and others for Assisted Suicide Eligibility," Not Dead Yet blog, January 30, 2009, attached hereto at A-24 & A-25.

<sup>27</sup> Id., at A-25

<sup>28</sup> Jerry Large, "Planning for old age at a premium," *The Seattle Times*, March 8, 2012. (Attached hereto at A-26)

<sup>29</sup> See SB 1129 SD 1 at Section 2, § -22, attached at A-124 to A-125.

Once the lethal dose is issued by the pharmacy, there is no oversight. No witness, not even a doctor is required to be present when the lethal dose is administered.<sup>30</sup>

## **VI. THE ACT**

### **A. The Act Creates a New Path of Elder Abuse**

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

Elder abuse is a problem in Hawaii and throughout the United States.<sup>31</sup> Perpetrators are often family members who start out with small crimes, such as stealing jewelry and blank checks, before moving on to larger items or to coercing victims to change their wills or to liquidate their assets.<sup>32</sup> Victims may even be murdered.<sup>33</sup> The State of Hawaii Executive Office on Aging states:

Like other forms of interpersonal violence, elder abuse usually occurs behind closed doors.<sup>34</sup>

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<sup>30</sup> See the proposed act in its entirety, attached beginning at A-102.

<sup>31</sup> See: State of Hawaii Executive Office on Aging, "Prevention of Elder Abuse Is in Our Hands: A Guide to Identify, Report and Prevent Abuse, Neglect and Exploitation," published July 2014, available at [https://www.hawaiiadrc.org/Portals/\\_AgencySite/Diane/EA-Prevention-07-2014.pdf](https://www.hawaiiadrc.org/Portals/_AgencySite/Diane/EA-Prevention-07-2014.pdf); and Met Life Mature Market Institute, Broken Trust: Elders, Family and Finances," March 2009, at <https://www.metlife.com/assets/cao/mmi/publications/studies/mmi-study-broken-trust-elders-family-finances.pdf>

<sup>32</sup> Met Life Mature Market Institute, *supra*.

<sup>33</sup> *Id.*, p. 24.

<sup>34</sup> State of Hawaii Executive Office on Aging, *supra* at note 29, page 4.

Elder abuse is prevalent in part because victims do not report it. The Executive Office on Aging states:

- [Victims f]eel ashamed and embarrassed, particularly if a family member is the abuser.
- [They are] afraid that if they report, the abuse will get worse.<sup>35</sup>

**2. "Even if a patient struggled, 'who would know?'"**

The act has no required oversight at the death.<sup>36</sup> In addition, the drugs used are water and alcohol soluble, such that they can be administered to a restrained or sleeping person without consent.<sup>37</sup> Alex Schadenberg, Executive Director for the Euthanasia Prevention Coalition, puts it this way:

With assisted suicide laws in Washington and Oregon [and with the proposed act], 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).<sup>38</sup>

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<sup>35</sup> Id., p.5.

<sup>36</sup> See the proposed act in its entirety, attached hereto at A-102 to A-116.

<sup>37</sup> 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 <http://www.drugs.com/pr/seconal-sodium.html> and <http://www.drugs.com/pro/nembutal.html> See also Oregon's government report, page 6, attached at A-53 (listing these drugs).

<sup>38</sup> Alex Schadenberg, Letter to the Editor, "Elder abuse a growing problem," *The Advocate*, Official Publication of the Idaho State Bar, October 2010, page 14, available at [http://www.margaretdore.com/info/October Letters.pdf](http://www.margaretdore.com/info/October%20Letters.pdf)

**B. The Death Certificate "Shall" List a Terminal Disease as the Cause of Death, Which Will Prevent Prosecution for Murder as a Matter of Law**

The act says:

Notwithstanding any other provision of law to the contrary, the attending provider may sign the patient's death certificate, which shall list the underlying terminal disease as the cause of death. (Emphasis added).<sup>39</sup>

The significance of requiring a terminal disease to be listed as the cause of death is that it creates a legal inability to prosecute: The official legal cause of death is a terminal disease (not murder) as a matter of law.

**C. The Act Merely Requires That Actions Be Taken in "Accordance" With the Act**

The act says that actions taken in accordance with the act shall not constitute mercy killing, which is another word for euthanasia.<sup>40</sup> The act states:

Actions taken in accordance with this chapter shall not, for any purpose, constitute suicide, assisted suicide, mercy killing [euthanasia], or homicide, under the law. (Emphasis added).<sup>41</sup>

The Act does not define "accordance."<sup>42</sup> Dictionary definitions include "in the spirit of," meaning "in thought or intention

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<sup>39</sup> SB 1129 SD1, Section 2, § -4(b), attached hereto at A-106.

<sup>40</sup> See definitions at A-6 (defining mercy killing as "euthanasia").

<sup>41</sup> The act, Section 2, § -17, attached at A-109.

<sup>42</sup> See the act in its entirety, attached hereto at A-101 to A-116.

though not physically."<sup>43</sup> So, if a participant in a patient's death had a thought or intention to comply with the act, but did not do not do so, that's enough to prevent the death from being treated as a suicide, assisted suicide, mercy killing [euthanasia], or homicide, under the law.

The significance is that a participant cannot be prosecuted for doing any of these things.

For an example of how "accordance" is interpreted in practice, see Section D below.

**D. If Hawaii Follows Washington State, Perpetrators Will Be Protected Simply Because the Act Was "Used"; Compliance With Patient Protections, Such as a Second Doctor and Waiting Periods, Will Not Be Required**

The act states:

Notwithstanding any other provision of law to the contrary, the attending provider may sign the patient's death certificate, which shall list the underlying terminal disease as the cause of death. (Emphasis added).<sup>44</sup>  
[and]

Actions taken in accordance with this chapter shall not, for any purpose, constitute suicide, assisted suicide, mercy killing, or homicide, under the law. (Emphasis added).<sup>45</sup>

Washington State's law has similar language, as follows:

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<sup>43</sup> Definitions are attached hereto at A-76 and A-77.

<sup>44</sup> The act, Section 2, § - 4(b), attached at A-106.

<sup>45</sup> Id., § - 17, attached at A-109.

[T]he patient's death certificate . . . shall list the underlying terminal disease as the cause of death. [and]

Actions taken in accordance with this chapter do not, for any purpose, constitute suicide, assisted suicide, mercy killing, or homicide under the law.<sup>46</sup>

In Washington State, this similar language requires the death certificate to list a natural death without regard to whether there was compliance with patient protections such as a second doctor and waiting periods. The only relevant inquiry is whether Washington State's law was "used." Washington State's "Death Certificate Instructions for Medical Examiners, Coroners and Prosecuting Attorneys," state:

If you know the decedent used [Washington State'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.
2. 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

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<sup>46</sup> RCW 70.245.040(2) and 180(1), available at <http://app.leg.wa.gov> (Excerpts can be viewed at A-78).

- 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; spacing changed.)<sup>47</sup>

If Hawaii follows Washington State's example, death certificates will list a natural death without disclosing the actual cause of death simply because the act was "used." Perpetrators and other participants in a patient's death will be legally protected regardless of whether there was compliance with patient protections.

**E. Euthanasia Is Not Authorized, But Nonetheless Allowed**

The proposed act states:

Nothing in this chapter shall be construed to authorize a physician or any other person to end a patient's life by lethal injection, mercy killing, or active euthanasia.<sup>48</sup>

As noted above, however, the act also states:

Actions taken in accordance with this chapter shall not, for any purpose, constitute suicide, assisted suicide, mercy killing [euthanasia], or homicide. (Emphasis added).<sup>49</sup>

With this language, the act does not "authorize" euthanasia, also known as mercy killing, but nonetheless allows

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<sup>47</sup> Washington State Department of Health "Instructions for Medical Examiners, Coroners, and Prosecuting Attorneys: Compliance with the Death with Dignity Act." (Attached hereto at A-78).

<sup>48</sup> The act, Section 2, § - 17, attached at A-109.

<sup>49</sup> Id.

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it when actions are taken in accordance with the act.

Euthanasia, also known as mercy killing, is in substance allowed under the proposed act.

**F. If Hawaii Follows Washington State, the Term, "Self-Administer," Will Allow Someone Else to Administer the Lethal Dose**

The act does not define "self-administer."<sup>50</sup> In Washington State, self-administration is defined as the "act of ingesting" the lethal dose. RCW 70.245.010(12) states:

"Self-administer" means a qualified patient's act of ingesting medication [the lethal dose] to end his or her life . . . (Emphasis added).

Washington's law and SB 1129 SD 1 do not define "ingest."

Dictionary definitions include:

[T]o take (food, drugs, etc.) into the body, as by swallowing, inhaling, or absorbing." (Emphasis added).<sup>51</sup>

With these definitions, someone else putting the lethal dose into a patient's mouth qualifies as proper administration because the patient will be "swallowing" the lethal dose, *i.e.*, "ingesting" it. Someone else placing a medication patch on the patient's arm will qualify because the patient will be "absorbing" the lethal dose, *i.e.*, "ingesting" it. Gas administration, similarly, will qualify because the patient will be "inhaling" the lethal dose,

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<sup>50</sup> See the proposed act in its entirety, beginning at A-101.

<sup>51</sup> Webster's New World College Dictionary, [www.yourdictionary.com/ingest](http://www.yourdictionary.com/ingest) (last visited May 28, 2010).

*i.e.*, "ingesting" it.

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

**G. Allowing Someone Else to Administer the Lethal Dose Is Euthanasia**

Allowing someone else to administer the lethal dose to the patient is "euthanasia" under generally accepted medical terminology. The American Medical Association's Ethics Opinion 5.8 states:

Euthanasia is the administration of a lethal agent by another person to a patient . . .  
(Emphasis added).

Attached hereto at A-5.

**H. The Act Does Not Say That Administration of the Lethal Dose Must Be By Self-Administration**

The act describes a patient who "self-administers" the lethal dose and says that a patient "may" self-administer the lethal dose. There is no language in the act, however, that administration of the lethal dose "must" be by self-administration.<sup>52</sup> Once again, the act does not require self-administration of the lethal dose; euthanasia is allowed.

**I. The Act Does Not Require That Administration of the Lethal Dose Be Voluntary**

The proposed act does not require administration of the lethal dose to be voluntary. The act repeatedly describes a

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<sup>52</sup> See the proposed act in its entirety

request for the lethal dose in voluntary terms.<sup>53</sup> The issue, however, is whether administration of the lethal dose is required to be voluntary and on this point, the act is silent.<sup>54</sup> The bill's preamble, which is not part of the act, implies voluntary administration.<sup>55</sup> But, the act itself, which is what matters, is silent on the subject. With no requirement in the act that administration of the lethal dose be voluntary, patients are not protected. The act must be rejected.

**J. If Hawaii Follows Oregon's Interpretation of "Not a Public Record," the Department of Health Will Be Insulated from Review, Even by Law Enforcement and Perhaps By the Legislature**

The proposed act charges the Department of Health with issuing an annual statistical report based on data collected pursuant to the act.<sup>56</sup> The act also states:

Except as otherwise required by law, the information collected shall not be a public record and may not be made available for inspection by the public. (Emphasis added).<sup>57</sup>

Oregon's law has an identical provision, as follows:

Except as otherwise required by law, the

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<sup>53</sup> See the act, Section 2, §§ -2, 3, 4, 5, 12 & 22. (Attached hereto, beginning at A-102)

<sup>54</sup> See the Act in its entirety, attached hereto at A-102 to A-116.

<sup>55</sup> See SB 1129 SD1, Section 1, at A-101 & A-102.

<sup>56</sup> SB 1129 SD1, Section 2, § -14(d). (Attached at A-108).

<sup>57</sup> Id., § -14(c).

information collected shall not be a public record and may not be made available for inspection by the public. (Emphasis added).<sup>58</sup>

In Oregon, this identical provision is interpreted to bar release of information about individual cases, to everyone, including law enforcement. Oregon's website states:

[T]he Act specifically states that information collected is not a public record and is not available for inspection by the public (ORS 127.865 (2)). The protection of confidentiality conferred by the Death with Dignity Act precludes the Oregon Health Authority [which oversees Oregon's Department of Health] from releasing information that identifies patients or participants, to the public, media, researchers, students, advocates, or other interested parties....<sup>59</sup>

Consider also this e-mail from Alicia Parkman, Mortality Research Analyst for the Oregon Health Authority, which states:

We have been contacted by law enforcement . . . in the past, but have not provided identifying information of any type. (Emphasis added).<sup>60</sup>

If Hawaii enacts the proposed act, which on this point is identical to Oregon's law, and follows Oregon's interpretation of "not a public record," there will be a similar lack of transparency in which even law enforcement will have no access to information about individual cases. Will the Legislature have

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<sup>58</sup> ORS 127.865 s.3.11 (Attached hereto at A-81)

<sup>59</sup> Oregon Data Release Policy, copy attached hereto at A-70.

<sup>60</sup> E-mail from Alicia Parkman to me, January 4, 2012, attached at A-63.

access? That would seem to be an open question.

**K. If Hawaii Follows Oregon's Data Collection Protocol, Patient Identities Will Not Be Recorded in Any Manner and Source Documentation Will Be Destroyed**

Oregon's website describes the data collection protocol for its annual reports, as follows:

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).<sup>61</sup>

Alicia Parkman, Mortality Research Analyst for the Oregon Health Authority, makes a similar representation as follows:

To ensure confidentiality, our office does not maintain source information on participants. (Emphasis added).<sup>62</sup>

The significance is that Oregon's annual reports are unverifiable. If Hawaii, based on its identical statutory language, follows Oregon, Hawaii's annual reports will also be unverifiable.

**VII. COMPASSION & CHOICES**

Passage of the proposed act is being spearheaded by the suicide promotion group, Compassion & Choices. In Oregon, this organization has used Oregon's law to disable and largely

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<sup>61</sup> Oregon Health Authority, Frequently Asked Questions, attached at A-71.

<sup>62</sup> E-mail from Alicia Parkman to Margaret Dore, 01/04/12, attached hereto at A-63.

displace the Department of Health as the entity overseeing Oregon's law. See below.

**A. Compassion & Choices is the Former Hemlock Society; Its Mission Is to Promote Suicide**

Compassion & Choices was formed in 2004 as the result of a merger/takeover of two other organizations.<sup>63</sup> One of these organizations was the former Hemlock Society, originally formed by Derek Humphry.<sup>64</sup>

In 2011, Humphry was the keynote speaker at Compassion & Choices' annual meeting here in Washington State.<sup>65</sup> He was also in the news as a promoter of mail-order suicide kits.<sup>66</sup> This was after a depressed 29 year old man used one of the kits to kill himself.<sup>67</sup> Compassion & Choices' newsletter, promoting Humphry's presentation, references him as "the father of the modern

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<sup>63</sup> Ian Dowbiggin, *A Concise History of Euthanasia* 146 (2007) ("In 2003, [the] Hemlock [Society] changed its name to End-of-Life Choices, which merged with Compassion in Dying in 2004, to form Compassion & Choices."). Accord. Compassion & Choices Newsletter attached at A-128 and available at <https://choiceisanillusion.files.wordpress.com/2016/10/humphry-keynote.pdf>

<sup>64</sup> Id.

<sup>65</sup> 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-128.)

<sup>66</sup> 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). (Attached hereto at A-129 & A-130).

<sup>67</sup> Id.

movement for choice.”<sup>68</sup> Compassion & Choices’ mission is to promote suicide.

**B. In Oregon, Compassion & Choices, a Non-Governmental Entity, has Largely Displaced the Department of Health as the Agency Overseeing Oregon’s Law**

**1. In Oregon, Compassion & Choices is like “the fox in the proverbial chicken coop” reporting to the farmer what’s happening in the coop**

In 2008, the Editorial Board for *The Oregonian*, which is Oregon’s largest newspaper, urged Washington State voters to reject its then pending assisted suicide measure.<sup>69</sup> The Editorial Board stated:

Oregon’s physician-assisted suicide program has not been sufficiently transparent. Essentially, a coterie of insiders run the program, with a handful of doctors and others deciding what the public may know. (Emphasis added).<sup>70</sup>

Four days later, Oregon doctors Stevens and Toffler published a follow up article agreeing with the Editorial Board.<sup>71</sup> They also stated:

The group promoting assisted suicide,

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<sup>68</sup> Compassion & Choices Newsletter, at A-128, <https://choiceisanillusion.files.wordpress.com/2016/10/humphry-keynote.pdf> .

<sup>69</sup> The Oregonian Editorial Board, “Washington state’s assisted-suicide measure: Don’t go there,” *The Oregonian*, September 20, 2012, available at [http://www.oregonlive.com/opinion/index.ssf/2008/09/washington\\_states\\_assisted\\_suic.html](http://www.oregonlive.com/opinion/index.ssf/2008/09/washington_states_assisted_suic.html)

<sup>70</sup> Id.

<sup>71</sup> Kenneth Stevens MD and William Toffler MD, “Assisted suicide: Conspiracy and control,” *The Oregonian*, September 24, 2008. (Attached hereto at A-91).

so-called "Compassion and Choices (C&C)", are like the fox in the proverbial chicken coop; in this case the fox is reporting its version to the farmer regarding what is happening in the coop. . . .

In 2006, C&C's attorneys intimidated the Oregon Department of Human Services (DHS) to change to euphemisms in referring to Oregon's assisted suicide law. The limited DHS reports of assisted suicides is another indication of this organization's influence. Information that is damaging to the "good public image" of Oregon's assisted suicide law is hidden or glossed-over in the DHS reports. . . .<sup>72</sup>

**2. In Oregon, a police officer assigned to my client's case was not able to get information from the State of Oregon; he obtained it from Compassion & Choices.**

In 2010, I had client who wanted to know if his father had died under Oregon's Act. I referred him to an Oregon attorney, Isaac Jackson, who asked the police to investigate. Jackson's subsequent declaration describes how the officer was unable to get information from the State of Oregon. Jackson states:

The officer's report describes how he determined that the [father's] death was under Oregon's assisted suicide law due to records other than from the State of Oregon. (Emphasis added)<sup>73</sup>

I also read the officer's report. According to the report, Compassion & Choices provided the records necessary for the officer to determine that the decedent had, in fact, died under

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<sup>72</sup> Id.

<sup>73</sup> Isaac Jackson, Declaration of Testimony, ¶ 8, 09/18/12, at A-66.  
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Oregon's law. The State had been unwilling to provide this information.

In Oregon, Compassion & Choices, a non-governmental entity, has largely displaced the Department of Health as the agency overseeing Oregon's law.

**C. Senator Jennifer Fielder on Compassion & Choices: "Beware of Vultures"**

In 2013, Montana State Senator Jennifer Fielder published an article titled "Beware of Vultures," discussing the motives of Compassion & Choices.<sup>74</sup> The article states:

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? .

. .

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.<sup>75</sup>

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<sup>74</sup> Published as Communication from Your State Senator, "Beware of Vultures," by Montana State Senator Jennifer Fielder, Sanders County Ledger, <http://www.sclledger.net>, page 2, 6-4-13 (Word processing version attached hereto at A-131 to A-132).

<sup>75</sup> Id.  
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## VIII. OTHER CONSIDERATIONS

### A. The Swiss Study: 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.<sup>76</sup> 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.<sup>77</sup>

### B. My Clients Suffered Trauma 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.<sup>78</sup>

In the first case, one side of the family wanted my client's father to take the lethal dose, while the other side did not. 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,

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<sup>76</sup> "Death by request in Switzerland: Posttraumatic stress disorder and complicated grief after witnessing assisted suicide," B. Wagner, J. Muller, A. Maercker; *European Psychiatry* 27 (2012) 542-546, available at <http://choiceisanillusion.files.wordpress.com/2012/10/family-members-traumatized-eur-psych-2012.pdf> (Cover page attached hereto at A-72)

<sup>77</sup> Id., at A-72.

<sup>78</sup> To protect the privacy of the persons involved, I am not identifying which case occurred in which state.

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. My client was told that his father had two suicide parties: that at the first party, his father had refused to take the lethal dose; that at the second party, his father had ingested the lethal dose while intoxicated. The person 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. In Oregon, Other Suicides Have Increased With  
Legalization of Physician-Assisted Suicide**

In Oregon, other (conventional) suicides have steadily increased with legalization of physician-assisted suicide. This is consistent with a suicide contagion in which the legalization of physician-assisted suicide has encouraged suicide generally. To learn more, please read my article attached hereto at A-131.<sup>79</sup>

**D. The Felony for Undue Influence Is Illusory  
and Unenforceable**

The act has a felony for undue influence, which is not defined and has no elements of proof. The proposed act states:

A person who coerces or exerts undue  
influence on a patient to request medication

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<sup>79</sup> For a more recent version, with attachments, go to this link:  
[http://www.choiceillusiondc.org/2017/01/in-oregon-other-suicides-have-increase-d\\_21.html](http://www.choiceillusiondc.org/2017/01/in-oregon-other-suicides-have-increase-d_21.html)

for the purpose of ending the patient's life,  
or to destroy a rescission of the request,  
shall be guilty of a class A felony.  
(Emphasis added).<sup>80</sup>

The act also allows the patient's heir to be one of two witnesses on the lethal drug request form.<sup>81</sup> In the context of a will, this situation can be used to prove undue influence.<sup>82</sup>

How do you prove that undue influence occurred when the act does not define it, and the act also allows conduct normally used to prove it? You can't. The felony for undue influence is illusory and unenforceable.

## **X. CONCLUSION**

Passing the amended act will encourage people with years, even decades, to live, to throw away their lives.

The proposed act is sold as completely voluntary, but does not even have a provision requiring administration of the lethal dose to be voluntary. Administration of the lethal dose is, regardless, allowed to occur in private without a doctor or witness present. If the patient objected or struggled, who would know?

Elder abuse is already a not well controlled problem. Passing the proposed act will make the situation worse, to

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<sup>80</sup> SB 1129 SD 1, Section 2, § -19, attached at A-112

<sup>81</sup> Id, § -22, attached hereto at A-114.

<sup>82</sup> See e.g., Washington State's probate statute: When one of two witnesses is a taker under the will, there is a rebuttal presumption that the taker/witness "procured the gift by duress, menace, fraud, or undue influence." (Attached hereto at A-87).

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effectively allow legal murder.

Physician-assisted suicide, even when voluntary, can be traumatic for patients and families. Passage will create a risk of suicide contagion. The proposed Oregon-style "oversight" is a sham and will create the opportunity for a non-governmental entity to displace the proper role of government.

For all of these reasons, I urge you to vote "No" on SB 1129 SD 1. Don't make Washington and Oregon's mistake. Thank you.

Respectfully submitted this 21<sup>th</sup> day of February 2017

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