

I. INTRODUCTION

I am an attorney in Washington State where assisted suicide is legal.¹ Our law is based on a similar law in Oregon. Both laws are similar to the proposed act in SB 1129 SD 2.

The proposed act seeks to legalize physician-assisted suicide and euthanasia as those terms are traditionally defined. The act calls these practices "aid in dying." This is misleading. "Eligible" persons may have years or decades to live. The act is also sold as a promotion of patient choice and control, which is not true. The act is stacked against the patient and a recipe for elder abuse. I urge you to vote "No" on SB 1129 SD2.

II. DEFINITIONS

A. 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."² For example:

¹ 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, www.choiceillusion.org and www.hawaiiagainstassistedsuicide.org

² The AMA Code of Medical Ethics, 2016, Opinion 5.7, "Physician-Assisted Suicide. (Attached hereto at A-5)

[The doctor] provides sleeping pills and information about the lethal dose, while aware that the patient may commit suicide.³

Assisted suicide is a general term in which an assisting person is not necessarily a physician. Euthanasia is the administration of a lethal agent to cause another person's death.⁴

B. Withholding or Withdrawing Treatment

Withholding or withdrawing treatment ("pulling the plug") is not euthanasia if the purpose 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 began to get better.⁵

III. ELDER ABUSE

A. Elder Abuse Is a Pervasive Problem That Includes the Financial Exploitation and Murder of Older Adults

Elder abuse is a problem in Hawaii and throughout the United

³ Id.

⁴ AMA Code of Medical Ethics, 2016, Opinion 5.8, "Euthanasia," attached hereto at A-5 (lower half of the page).

⁵ 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-6, quote at A-8.

States.⁶ 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.⁷

Perpetrators can also be calculating criminals. Consider Melissa Ann Shepard, the "Internet Black Widow," who preyed on lonely men.⁸ A 2016 article states:

[These men] sought companionship and found instead someone who siphoned their savings, slipped drugs into their food and, in the case of one man, ran him over . . . and left him dead on a dirt road.⁹

B. Victims Rarely Report

Elder abuse is a largely hidden problem, in part, due to the reluctance of victims to report. It is estimated that only 1 in 14 cases ever comes to the attention of the authorities.¹⁰ In

⁶ 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; 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>

⁷ Met Life Mature Market Institute, *supra*.

⁸ Cassie Williams, CBC News, "Internet Black Widow Melissa Ann Shepard arrested in Halifax," April 12, 2016, attached hereto at A-9 & A-10.

⁹ Yanan Wang, "This 80-year-old 'Black Widow,' who lured lonesome old men to horrible fates, is out of prison again," *The Washington Post*, March 21, 2016. (Attached hereto at A-11 through A-13).

¹⁰ Nat'l Center on Elder Abuse, <http://www.ncea.aoa.gov/Library/Data/>

another study, it was 1 out of 25 cases.¹¹ Reasons include:

[Victims are] afraid that if they report, the abuse will get worse.¹²

IV. ASSISTED SUICIDE AND EUTHANASIA

A. Assisting Persons Can Have Their Own Agendas

Persons who assist a suicide or euthanasia can have their own agendas. For an Oregon example, there is the Thomas Middleton case. Two days after he died of physician-assisted suicide, his trustee sold his home and deposited the proceeds into bank accounts for her own benefit.¹³ She was charged with fraud, but the case did not go forward.¹⁴ Middleton's son was dismayed with the outcome.¹⁵

B. Few States Allow Assisted Suicide

Oregon and Washington legalized physician-assisted suicide by ballot measures in 1997 and 2008, respectively. Since then, just three states and the District of Columbia have passed similar laws (Vermont, California and Colorado). These laws also

¹¹ Id.

¹² State of Hawaii Executive Office on Aging, *supra* at note 7, page 5.

¹³ KTVZ.com, "Sawyer Arraigned on State Fraud Charges," updated July 14, 2011. (Attached hereto at A-14).

¹⁴ KTVZ.com, "State dropping Tami Sawyer fraud case: DOJ says prosecution likely would not add time behind bars," updated October 30, 2013. (Attached hereto at A-15).

¹⁵ Id.

allow euthanasia.¹⁶

C. Other States Push Back

In the last six years, five states have strengthened their laws against assisted suicide: Arizona, Louisiana, Georgia, Idaho and Ohio.¹⁷

Last year, the New Mexico Supreme Court overturned a lower court case recognizing a right to physician aid in dying, meaning physician assisted suicide.¹⁸ Physician-assisted suicide is no longer legal in New Mexico.

V. THE ACT

A. How the Act Works

The act has an application process to obtain the lethal dose, which includes a written lethal dose request form with two required witnesses.¹⁹ One of the witnesses is allowed to be the patient's heir who will financially benefit from the patient's

¹⁶ Consider, for example, Washington's law, which was sold to voters as assisted suicide in which a patient would "self-administer" the lethal dose. In Washington's law, the term, "self-administer" is specially defined to allow someone else to administer the lethal dose to the patient, which is euthanasia. Cf. Margaret K. Dore, "'Death with Dignity': What Do We Advise Our Clients?," at A-16 to A-18.

¹⁷ See: Associated Press, "Brewer signs law targeting assisted suicide," *Arizona Capitol Times*, 04/30/14, attached at A-19; Associated Press, "La. assisted-suicide ban strengthened," *The Daily Comet*, 04/24/12, attached at A-20); Georgia HB 1114 (attached hereto at A-21); Margaret Dore, "Idaho Strengthens Law Against Assisted Suicide," *Choice is an Illusion*, 07/04/11, at A-22 ("Governor Butch Otto signed Senate law 1070 into law. The law explicitly provides that causing or aiding a suicide is a felony"); and Ohio HB 470, at <https://choiceisanillusion.files.wordpress>

¹⁸ *Morris v. Brandenburg*, 376 P.3d 836 (2016). (Excerpt attached at A-23).

¹⁹ The form can be viewed at SB 1129 SD 2, Section 2, § -23, attached hereto at A-126 to A-128. The witness section can be viewed at A-128.

death.²⁰

After the lethal dose is issued by the pharmacy, there is a complete lack of oversight. No doctor, not even a witness, is required to present at the death.²¹

B. A Comparison to Probate Law

When signing a will, having an heir act as one of two witnesses can support a finding of undue influence. Washington's probate code, for example, provides that when one of two witnesses inherits under a will, there is a rebuttable presumption that the inheritance was procured "by duress, menace, fraud, or undue influence."²²

The act's lethal dose request process, which allows an heir to act as one of two witnesses on the lethal dose request form, does not promote patient choice. It invites coercion.

C. "Eligible" Persons May Have Decades to Live

The act applies to persons with a "terminal disease" who are predicted to have less than six months to live.²³ Such persons may, in fact, have decades to live. This is true for three reasons:

²⁰ Id.

²¹ See SB 1129 SD 2 in its entirety, attached hereto at A-101 to A-132.

²² Wash. Rev. Code Ann. § 11.12.160(2), attached hereto at A-24.

²³ SB 1129 SD 2, Section 2, §§ -1 & 2, attached hereto at A-105 to A-106.

1. The six months to live is determined without treatment

The act 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.²⁴

Oregon's law has this same definition:

"Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six months.²⁵

In Oregon, this same definition is interpreted to include chronic conditions such as "diabetes mellitus," better known as diabetes.²⁶ Oregon doctor, William Toffler, explains:

[P]eople with chronic conditions are "terminal" [for the purpose of Oregon's law] if without their medications, they have less than six months to live. This is significant when you consider that a typical insulin-dependent 20 year-old . . . will live less than a month without insulin. Such persons, with insulin, are likely to have decades to live (Emphasis changed).²⁷

If Hawaii enacts the proposed bill and follows Oregon's interpretation of "terminal disease," assisted suicide and euthanasia will be legalized for people with chronic conditions

²⁴ Id., attached hereto at A-105, lines 19 to 21.

²⁵ Or. Rev. Stat. 127.800 s.1.01(12), attached hereto at A-25.

²⁶ Declaration of William Toffler, MD, ¶3, at A-26. See also Oregon's annual report for 2015, attached hereto at A-34 & A-35 (listing chronic conditions, such as "chronic lower respiratory disease" and "diabetes mellitus" as underlying illnesses sufficient to justify assisted suicide).

²⁷ Toffler Declaration., ¶4, attached hereto at A-26 to A-27.

such as insulin dependent diabetes. People who, with their medications, can have decades to live.

2. Predictions of life expectancy can be wrong

Eligible persons may also have years to live because doctor predictions of life expectancy can be wrong. This is due to misdiagnosis and the fact that predicting life expectancy is not an exact science.²⁸ Consider John Norton, who was diagnosed with ALS (Lou Gehrig's disease) at age 18.²⁹ He was told that he would get progressively worse (be paralyzed) and die in three to five years.³⁰ Instead, the disease progression stopped on its own.³¹ 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.³²

3. Treatment can lead to recovery

Consider also Oregon resident, Jeanette Hall, who was diagnosed with cancer in 2000 and made a settled decision to use

²⁸ See Jessica Firger, "12 million Americans misdiagnosed each year," CBS NEWS, 4/17/14 (attached at A-36); and Nina Shapiro, *supra*, attached at A-6.

²⁹ Affidavit of John Norton, ¶ 1 (Attached hereto at A-37).

³⁰ *Id.*, ¶ 1.

³¹ *Id.*, ¶ 4, attached hereto at A-38.

³² *Id.*, ¶ 5.

Oregon's law.³³ Her doctor convinced her to be treated instead.³⁴

In a 2016 affidavit, she states:

This July, it will be 16 years since my diagnosis. If [my doctor] had believed in assisted suicide, I would be dead.³⁵

D. Patients Will Lose the Right to Informed Consent: They Will Lose the Right to Be Told About Alternatives For Cure

1. Present law

Under present law, a person making a health care decision has the right to "informed consent." This includes the right to be supplied with information concerning "recognized alternative treatments" and their "recognized benefits," for example, regarding a cure for cancer. HRS § 671-3(b) states:

The following information shall be supplied to the patient . . . prior to obtaining consent to a proposed medical or surgical treatment . . .

(4) The recognized alternative treatments or procedures, . . . and . . .

(6) The recognized benefits of the recognized alternative treatments or procedures.
(Emphasis added).³⁶

2. The proposed act

Under the proposed act, a person considering the lethal dose

³³ Affidavit of Kenneth Stevens, MD, attached at A-40 to A-46; Jeanette Hall discussed at A-40 to A-41. Affidavit of Jeanette Hall, attached at A-47.

³⁴ Id.

³⁵ Affidavit of Jeanette Hall, ¶4, at A-47.

³⁶ Attached hereto at A-48.

instead has the right to an "informed decision." The act states:

"Informed decision" means a decision . . . that is based on an appreciation of the relevant facts and after being fully informed . . . of . . .

- (5) the feasible alternatives, including but not limited to comfort care, hospice care, and pain control. (Emphasis added)³⁷

With this language, the patient no longer has the right to be told of "recognized alternative treatments" and their "recognized benefits," for example, to cure cancer. This is due to the rule of statutory construction, *ejusdem generis*.

Per the rule, a general reference in a statute only applies to the same kind of things specifically listed.³⁸ As set forth above, the proposed act has a general reference to "feasible alternatives" and also refers to a list of specific alternatives: "comfort care, hospice care, and pain control."

Per the rule, these specific alternatives, all having to do with death and dying, limit "feasible alternatives" to those involving death and dying. Patients no longer have the right to be told of "recognized alternatives" and their "recognized benefits" such as a cure for cancer. With the act, they lose that right. So much for empowering patient choice and control.

³⁷ SB 1129 SD2, Section 2, § -1, page 4, line 11 to page 5, line 4. Attached hereto at A-104 and A-105.

³⁸ See <http://dictionary.law.com/Default.aspx?selected=607>

E. There Is No Requirement of Voluntariness, Capability or Consent When the Lethal Dose is Administered

The act does not require administration of the lethal dose to be voluntary.³⁹ Similarly, the act does not require that the patient be capable or even aware when the lethal dose is administered.⁴⁰ There is no language requiring patient consent to administration.⁴¹ Without these requirements, patient choice and control is an illusion.

³⁹ The act repeatedly uses the word "voluntary" in relation to a request for the lethal dose. The act does not require that administration of the lethal dose be voluntary. See the act attached hereto at A 101, A-102, A-106 to A-108, A-111, A-113 to A-114 and A-127.

⁴⁰ See the act in its entirety, attached hereto at A-101 to A-132. Note also that the term, "capable," is only relevant during the lethal dose request process when a patient is to "make and communicate" a decision. The act states:

"Capable" means that in the opinion of a court or in the opinion of the patient's attending provider or consulting provider, psychiatrist, or psychologist, a patient has the ability to make and communicate health care decisions to health care providers. (Emphasis added).

SB 1129 SD2, Section 2, § -1, attached hereto at A-103, lines 8-12.

⁴¹ The act uses the word, "consent" just once, in the context of the obtaining the lethal dose from a pharmacist (not with regard to administration of the lethal dose). The act, § -4(a) states:

The attending provider shall: . . .

(12) (B) With the qualified patient's written consent:

(i) Contact a pharmacist of the qualified patient's choice and inform the pharmacist of the prescription; and

(ii) Transmit the written prescription personally, by mail, or electronically to the pharmacist, who will dispense the medications to either the qualified patient, the attending provider, or an expressly identified agent of the qualified patient. (Emphasis added).

Attached hereto at A-110.

F. Someone Else Is Allowed to Administer the Lethal Dose to the Patient: "Self-Administration" Is Not Required

Generally accepted medical practice allows a doctor, or a person acting under the direction of a doctor, to administer medication to a patient.⁴²

Common examples of persons who administer medication under the direction of a doctor, include: nurses who administer prescription drugs to patients in a hospital setting; parents who administer prescription drugs to their children in a home setting; and adult children who administer prescription drugs to their parents in a home setting.⁴³

The proposed act allows a doctor to prescribe the lethal dose as part of his or her medical practice.⁴⁴ The act also describes the lethal dose as being self-administered by the

⁴² See Declaration of Kenneth Stevens, MD, 01/06/16, at A-51, ¶ 10, which states:

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 to a patient 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. (Spacing changed)

⁴³ Id.

⁴⁴ The act allows an attending provider, which includes a physician licensed to practice medicine pursuant to chapter 453, to prescribe the lethal dose. See: SB 1129 SD2, § -1 (defining "attending provider" as "a physician licensed to practice pursuant to chapter 453"). See also HRS §453-1 (defining the practice of medicine as including "the use of drugs and medicines").

patient.⁴⁵ There is, however, no language stating that administration "must" be by self-administration.⁴⁶

With self-administration not mandatory, generally accepted medical practice allow a doctor or a person acting under the direction of a doctor to administer the medication (lethal dose). 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 a patient is euthanasia under generally accepted medical terminology. The AMA Code of Ethics, Opinion 5.8 states:

Euthanasia is the administration of a lethal agent by another person to a patient
(Emphasis added.)⁴⁷

H. The Act Does Not Prohibit Euthanasia

The act appears to prohibit euthanasia, which is also known as lethal injection and mercy killing.⁴⁸ The 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.⁴⁹

⁴⁵ See SB 1129 SD2 in its entirety, attached hereto at A-101 to A-132.

⁴⁶ Id.

⁴⁷ Attached hereto at A-5 (lower half of the page).

⁴⁸ For definitions of "lethal injection" and "mercy killing," see attachments at A-52 and A-53, respectively.

⁴⁹ The act, Section 2, § - 18, attached at A-117, lines 11 to 14.

This apparent prohibition is defined away in the next sentence:

Actions taken in accordance with this chapter shall not, for any purpose, constitute suicide, assisted suicide, mercy killing [another word for euthanasia], or homicide. (Emphasis added).⁵⁰

I. There Is a Complete Lack of Oversight at the Death

If for the purpose of argument, the act does not allow euthanasia, patients are nonetheless at risk to the actions of other people. This is due to the complete lack of oversight at the death.⁵¹

Without oversight, the opportunity is created for someone else to administer the lethal dose to the patient. The drugs used are water and alcohol soluble, such that they can be injected into a sleeping or restrained person.⁵² Even if the patient struggled, who would know?

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,

⁵⁰ Id., lines 14 to 17.

⁵¹ Again, see the act in its entirety (no oversight required when the lethal dose is administered)

⁵² The drugs used for assisted suicide in Oregon and Washington include Secobarbital and Pentobarbital (Nembutal). 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 5, attached at A-34 (listing these drugs).

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there is no supervision over administration.
. . . [I]f a patient struggled, "who would
know?" (Emphasis added).⁵³

J. The Death Certificate Is Required to List a Terminal Disease as the Cause of Death, Which Prevents Prosecution for Murder

The proposed act states:

The death certificate shall list the terminal disease as the immediate cause of death.
(Emphasis added).⁵⁴

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.

K. The Act Prevents Prosecution of Criminal Conduct For Actions Taken in "Accordance" With the Act

The act says that actions taken in accordance with the act "shall not" constitute criminal conduct. The act states:

Actions taken in accordance with this chapter shall not, for any purpose, constitute suicide, assisted suicide, mercy killing, murder, manslaughter, negligent homicide, or any other criminal conduct under the law.
(Emphasis added).⁵⁵

The Act does not define "accordance."⁵⁶ Dictionary

⁵³ 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)

⁵⁴ SB 1129 SD2, Section 2, § -4(b), attached hereto at A-110, lines 18-19.

⁵⁵ SB 1129 SD2, Section 2, § -18, attached at A-117, lines 14 to 17.

⁵⁶ See the act in its entirety, attached hereto at A-101 to A-116.

definitions include "in the spirit of," meaning "in thought or intention though not physically."⁵⁷

For an example of how "accordance" is interpreted in practice, see Section L below regarding Washington State.

L. If Hawaii Follows Washington State, There Will Be an Official Legal Cover Up

Again, the act states:

The death certificate shall list the terminal disease as the immediate cause of death

[and]

Actions taken in accordance with this chapter shall not, for any purpose, constitute suicide, assisted suicide, mercy killing, murder, manslaughter, negligent homicide, or any other criminal conduct under the law.

(Emphasis added).⁵⁸

In Washington State, similar language is interpreted by the Washington State Department of Health (the "Department") to require the death certificate to list a natural death without even a hint that the actual cause of death was assisted suicide or euthanasia. The only relevant inquiry is whether Washington's Act was "used."

The Department's "Death Certificate Instructions for Medical Examiners, Coroners and Prosecuting Attorneys," states:

Washington's [law] states that "...the patient's death certificate ... shall list the underlying terminal disease as the cause

⁵⁷ Definitions are attached hereto at A-54 and A-55.

⁵⁸ SB 1129 SD2, Section 2, §§ -4(b) & -18.

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of death.” [Washington’s law] 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 [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.
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
 - 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.)⁵⁹

If Hawaii enacts the proposed act and follows Washington State, death certificates will not even hint that the actual cause of death was assisted suicide or euthanasia. This will happen as long as the act was “used” and regardless of whether there was compliance with other act provisions. There will be an official legal cover up.

⁵⁹ A copy of the Washington State Department of Health death certificate instruction is attached hereto at A-58.

VI. OREGON IS NOT A VALID CASE STUDY

Oregon is not a valid case study due to a near complete lack of transparency regarding its law.⁶⁰ Even law enforcement does not have access to the information collected.⁶¹ Source documentation is destroyed.⁶² The bottom line, Oregon's official data cannot be verified.

VII. OTHER CONSIDERATIONS

A. Compassion & Choices' Mission is to Promote Suicide

The bill's passage 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.⁶³ One of these

⁶⁰ See: "Declaration of Testimony" by Oregon attorney Isaac Jackson, dated September 18, 2012, attached hereto at A-57 to A-62 (regarding the run-around he got when he attempted to learn whether his client's father had died under Oregon's law - the Oregon Health Authority would neither confirm nor deny whether the father had died under the law); E-mail from Alicia Parkman, Oregon Mortality Research Analyst, to Margaret Dore, dated January 4, 2012, attached at A-63-A-64 (law enforcement cannot get access to information); Excerpt from Oregon's website at A-67 (patient identities "not recorded in any manner"); E-mail from Parkman to Dore, January 4, 2012, attached at A-65 to A-66 ("all source documentation" destroyed after one year); and the "Confidentiality of Death Certificates" policy issued by the Oregon Department of Human Resources Health Division, December 12, 1997, attached at A-68 to A-69 (clarifying that employees failing to comply with confidentiality rules "will immediately be terminated"), as published in the *Issues in Law & Medicine*, Volume 14, Number 3, 1998. See also documents attached at A-70 to A-72.

⁶¹ Id.

⁶² Id.

⁶³ 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-73 ("Years later, the Hemlock Society would become End of Life Choices and then merge with Compassion in Dying to become Compassion & Choices").

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organizations was the former Hemlock Society, originally formed by Derek Humphry.⁶⁴

In 2011, Humphry was the keynote speaker at Compassion & Choices' annual meeting in Washington State.⁶⁵ He was also in the news as a promoter of mail-order suicide kits.⁶⁶ This was after a depressed 29 year old man used one of the kits to kill himself.⁶⁷ Compassion & Choices' newsletter, promoting Humphry's presentation, references him as "the father of the modern movement for choice."⁶⁸ Compassion & Choices' mission is to promote suicide.

B. In Oregon, Other 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 (conventional) suicides. This statistical correlation is consistent with a suicide contagion in which legalizing physician-assisted suicide encouraged other

⁶⁴ Id.

⁶⁵ Compassion & Choices Newsletter, regarding Humphry's October 22, 2011 speaking date. (Attached hereto at A-73.)

⁶⁶ 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.") (Attached hereto at A-74 to 75) (Emphasis added)

⁶⁷ Id.

⁶⁸ Compassion & Choices Newsletter, at A-73.

suicides. Consider the following:

Oregon's assisted suicide act went into effect "in late 1997."⁶⁹

By 2000, Oregon's conventional suicide rate was "increasing significantly."⁷⁰

By 2007, Oregon's conventional suicide rate was 35% above the national average.⁷¹

By 2010, Oregon's conventional suicide rate was 41% above the national average.⁷²

There is a significant financial cost associated with these other suicides. One reason is that people who attempt suicide (and fail) can injure themselves or become disabled by the attempt. A government report from Oregon states:

[T]he estimate of total lifetime cost of suicide in Oregon was over 680 million dollars.⁷³

C. 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

⁶⁹ Oregon's assisted suicide report for 2014, first line, at <http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Documents/year17.pdf>

⁷⁰ See Oregon Health Authority News Release, 09/09/10. ("After decreasing in the 1990s, suicide rates have been increasing significantly since 2000"). (Attached at A-76)

⁷¹ *Id.*

⁷² Oregon Health Authority Report, *Suicides in Oregon, Trends and Risk Factors* (2012 Report), at A-78.

⁷³ See report at A-78.

Switzerland.⁷⁴ 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.⁷⁵

D. My Clients Suffered Trauma in Oregon and Washington State

In Washington State and Oregon, I have had two cases where my clients suffered trauma due to legal assisted suicide. In the first case, one side of the family wanted the 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, 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 told my client that my client's father had refused to take the lethal dose when it was delivered, stating, "You're not killing me. I'm going to bed," but then he (the father) took it the next night when he was intoxicated on alcohol. The man who told this to my client

⁷⁴ "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-80)

⁷⁵ Id., at A-80.

subsequently changed his story.

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

E. 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 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).⁷⁶

The act allows the patient's heir to be one of two witnesses on the lethal drug request form, which as noted above can provide proof of undue influence.⁷⁷

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

VIII. CONCLUSION

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 allowed to occur in private without a doctor or witness present.

⁷⁶ SB 1129 SD 2, Section 2, § -20(b), attached at A-124.

⁷⁷ Again, see Washington State's probate statute attached hereto at A-24).

If the patient objected or even struggled, who would know?

Don't make Oregon and Washington's mistake. I urge you to vote "No" on SB 1129 SD2.

Respectfully Submitted,

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