

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 HB 160, which seeks to legalize assisted suicide and euthanasia in Delaware.²

HB 160 is stacked against the individual and a recipe for elder abuse. If enacted, it will apply to people with years or decades to live. I urge you to reject this measure.

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."³ For example:

[T]he physician provides sleeping pills and information about the lethal dose, while aware that the patient may commit suicide.⁴

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 at A-1 to A-4. See also www.margaretdore.com, www.choiceillusion.org.

² HB 160 is attached hereto in the appendix at A-101 through A-111.

³ The AMA Code of Medical Ethics, Opinion 5.7, "Physician-Assisted Suicide," attached hereto at A-5.

⁴ Id.

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.⁵

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.⁶

III. STATES PUSH BACK AGAINST ASSISTED SUICIDE

A. This Year, the South Dakota Legislature Passed a Nearly Unanimous Resolution Opposing Assisted Suicide

This year, the South Dakota Legislature passed Senate Concurrent Resolution 11, opposing physician-assisted suicide.⁷ The vote was nearly unanimous.⁸

⁵ Id, Opinion 5.8, "Euthanasia," attached hereto at A-5 (lower half of the page).

⁶ 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 in the appendix at A-6, quote at A-8.

⁷ Bill History, South Dakota Senate Concurrent Resolution 11, "Opposing physician-assisted suicide," attached hereto at A-9.

⁸ Id., 32 to 3 in the Senate; 67 to 1 in the House.

B. Last Year, the New Mexico Supreme Court Overturned Assisted Suicide in New Mexico

Last year, the New Mexico Supreme Court overturned a lower court decision that had recognized a right to physician aid in dying, meaning physician assisted suicide.⁹ Physician-assisted suicide is no longer legal in New Mexico.

C. Five Other States Have Strengthened Their Laws Against Assisted Suicide

In the last six years, five other states have strengthened their laws against assisted suicide. These states are Arizona, Louisiana, Georgia, Idaho and Ohio.¹⁰

IV. FEW STATES ALLOW ASSISTED SUICIDE

Oregon and Washington State legalized assisted suicide via ballot bills in 1997 and 2008, respectively. Since then, just three states and the District of Columbia have passed similar laws (Vermont, California and Colorado). In the fine print, these laws also allow euthanasia.

V. ELDER ABUSE

Elder abuse is a prevalent and largely hidden problem

⁹ *Morris v. Brandenburg*, 376 P.3d 836 (2016). (Excerpt attached at A-12)

¹⁰ See: AP, "Brewer signs law targeting assisted suicide," *Arizona Capitol Times*, 04/30/14, attached at A-13; AP, "La. assisted-suicide ban strengthened," *The Daily Comet*, 04/24/12, attached at A-14; Georgia HB 1114, attached at A-15; "Idaho Strengthens Law Against Assisted Suicide," attached at A-16 ("The law explicitly provides that causing or aiding a suicide is a felony"); and Ohio HB 470, at <https://choiceisanillusion.files.wordpress>

throughout the United States, including Delaware.¹¹ 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.¹² Victims are sometimes murdered.¹³

Perpetrators can also be calculating criminals. Consider Melissa Ann Shepard, the "Internet Black Widow," who preyed on older men. 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 with a car and left him dead on a dirt road.
(Emphasis added).¹⁴

VI. HOW THE BILL WORKS

HB 160 has an application process to obtain the lethal dose, which includes a written lethal request form with two required

¹¹ See: Met Life Mature Market Institute, Broken Trust: Elders, Family and Finances," March 2009, available at <https://www.metlife.com/assets/cao/mmi/publications/studies/mmi-study-broken-trust-elders-family-finances.pdf>; and Delaware Adult Protective Services, available at <http://www.dhss.delaware.gov/dhss/dsaapd/files/aps.pdf>, ("Elder abuse is one of the most under-reported social problems in our society today"). (Excerpt attached hereto at A-10)

¹² Met Life, supra.

¹³ Id.

¹⁴ 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, excerpts attached hereto at A-20 to A-22. Also available at https://www.washingtonpost.com/news/morning-mix/wp/2016/03/21/this-80-year-old-black-widow-who-lured-lonesome-old-men-to-horrible-fates-is-out-of-prison-again/?utm_term=.9c46944c40f0

witnesses.¹⁵ One of the witnesses is allowed to be the patient's heir who will financially benefit from the patient's death.¹⁶

After the lethal dose is issued by the pharmacy, there is no oversight. No doctor, not even a witness, is required to present at the death.¹⁷

VII. 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 State's probate code, for example, provides that when one of two witnesses receives a gift under a will, there is a presumption that the gift was procured "by duress, menace, fraud, or undue influence."¹⁸ The proposed bill, which allows an heir to act as a witness on the lethal dose request form, invites coercion.

VIII. DECADES TO LIVE

HB 160 applies to persons with a "terminal disease," meaning those predicted to have less than six months to live. Such persons may, in fact, have years or decades to live. This is true for three reasons:

¹⁵ The bill's lethal dose request form can be viewed at § 2520B, attached hereto at A-110 to A-111. The witness section can be viewed at A-111, lines 289 to 293.

¹⁶ HB 160, § 2520B, attached hereto at A-11.

¹⁷ See HB 160 in its entirety, attached hereto at A-101 to A-111.

¹⁸ Wash. Rev. Code Ann. § 11.12.160(2), attached hereto at A-10.

A. If Delaware Follows Oregon, the Bill Will Apply to People with Chronic Conditions Such as Insulin Dependent Diabetes

HB 160 states:

"Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within 6 months.¹⁹

Oregon's law has a nearly identical 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.²⁰

In Oregon, this nearly identical definition is interpreted to include chronic conditions such as "diabetes mellitus," better known as diabetes.²¹ 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.²²

Dr. Toffler adds:

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.²³

¹⁹ HB 160, § 2501B (13), attached hereto at A-102, lines 41-42.

²⁰ Or. Rev. Stat. 127.800 s.1.01(12), attached hereto at A-22.

²¹ See Declaration of William Toffler, MD, at A-12 to A-13, ¶¶ 2-4.

²² Id., at A-13, ¶ 5.

²³ Id., ¶ 6.

If the proposed bill is enacted, assisted suicide and euthanasia will be allowed for people with chronic conditions such as insulin dependent diabetes. Such persons can have years or decades to live.

B. Predictions of Life Expectancy Can Be Wrong

Eligible persons may also have years to live because predictions of life expectancy can be wrong.²⁴ Consider John Norton, who was diagnosed with ALS (Lou Gehrig's disease) at age 18.²⁵ He was told that he would get progressively worse (be paralyzed) and die in three to five years.²⁶ Instead, the disease progression stopped on its own.²⁷ 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.

Affidavit of John Norton, ¶5

C. Treatment Can Lead to Recovery

Consider also Jeanette Hall, who was diagnosed with cancer

²⁴ Cf. Jessica Firger, "12 million Americans misdiagnosed each year," CBS NEWS, 4/17/14, attached hereto at A-23, and 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. (Excerpts attached at A-6 to A-8).

²⁵ Affidavit of John Norton, attached hereto at A-23 to A-26.

²⁶ *Id.*, ¶ 1.

²⁷ *Id.*, ¶ 4, attached hereto at A-27.

in 2000 and made a settled decision to use Oregon's law.²⁸ Her doctor convinced her to be treated instead.²⁹ In a 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.³⁰

If the proposed legislation is enacted, people like Jeanette Hall, with years or decades to live, will be encouraged to throw away their lives.

IX. STACKED AGAINST THE INDIVIDUAL

A. Patients Lose the Right to Be Told of Alternatives for Cure

Under current Delaware law, individuals have a right to "informed consent." This includes the right to be told of alternatives to a proposed treatment that a reasonable patient would consider material, for example, regarding the existence of an alternative treatment with fewer side effects to possibly cure the patient's ailment. 18 *Del. C.* § 6801(6), states:

"Informed consent" means the consent of a patient to the performance of health-care services by a health-care provider given after the health-care provider has informed the patient . . . of the . . . alternatives to treatment . . . which a reasonable patient would consider material to the

²⁸ Affidavit of Kenneth Stevens, MD, attached at A-27 to A-33; Jeanette Hall discussed at A-27 to A-28; Hall declaration attached at A-34.

²⁹ *Id.*

³⁰ Declaration of Jeanette Hall, ¶4, at A-34.

decision whether or not to undergo the treatment (Emphasis added).³¹

With HB 160, patients instead have the right to an "informed decision." The bill states:

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

(e) The feasible alternatives, including comfort care, hospice care, and pain control. (Emphasis added).³²

With this language, patients have a right to be told of treatment alternatives related to death and dying (comfort care, hospice care, and pain control). Patients do not, however, have a right to be told about alternatives for cure. This is due to the rule of statutory construction, *ejusdem generis*, which states:

[W]here general words . . . precede the enumeration of particular classes of things, . . . *ejusdem generis* . . . requires that the general words . . . be construed as applying

³¹ 18 Del. C. § 6801(6) states in full:

"Informed consent" means the consent of a patient to the performance of health-care services by a health-care provider given after the health-care provider has informed the patient, to an extent reasonably comprehensible to general lay understanding, of the nature of the proposed procedure or treatment and of the risks and alternatives to treatment or diagnosis which a reasonable patient would consider material to the decision whether or not to undergo the treatment or diagnosis.

Attached hereto at A-35.

³² HB 160, § 2501B(7), attached hereto at A-102.

only to things of the same general kind as those enumerated.³³

With HB 160, the general words, "feasible alternatives," precede enumerated words having to do with death and dying ("comfort care, hospice care, and pain control"). Per the rule, this enumeration limits the general words, "feasible alternatives" to those having to do with death and dying. Patients lose the right to be told about alternatives for cure.

B. Someone Else Is Allowed to Communicate on the Patient's Behalf

A patient obtaining the lethal dose is required to be "capable."³⁴ This is a relaxed standard in which someone else is allowed to communicate for the patient, as long as the communicating person is "familiar with the patient's manner of communicating." The bill states:

"Capable" means that in the opinion of an individual's attending physician and consulting physician, or licensed medical professional if an opinion is requested by the attending or consulting physician, the individual has the ability to make and communicate an informed medical decision to healthcare providers, including communication through a person familiar with the individual's manner of communicating if that person is available.³⁵

Notice that the communicating person is not required to be

³³ *Crawford v Schulte*, 829 N.W.2d 155, 158 (2013).

³⁴ HB 160, § 2501B(3), attached hereto at A-101.

³⁵ *Id.*

the patient's designated agent. Being familiar with a patient's "manner of communicating" is, regardless, a very minimal standard. Consider, for example, a doctor's assistant who is familiar with a patient's "manner of communicating" in Spanish, but she, herself, does not understand Spanish. That, however, would be good enough for her to communicate for the patient during the lethal dose request process. With this situation, patient choice and control is far from guaranteed.

C. Even If a Patient Struggled, Who Would Know?

HB 160 has no required oversight over administration of the lethal dose.³⁶ In addition, the drugs used are water and or alcohol soluble, such that they can be injected into a sleeping or restrained person without consent.³⁷ 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 bill], 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

³⁶ See HB 160 in its entirety, attached hereto at A-101 to A-111.

³⁷ In Oregon, the drugs used include Secobarbital, Pentobarbital (Nembutal) and Phenobarbital. See the Oregon government report excerpts, attached hereto at A-36 and A-37 (listing these drugs). Secobarbital and Pentobarbital are soluble in water and alcohol. See <http://www.drugs.com/pr/seconal-sodium.html> and <http://www.drugs.com/pro/nembutal.html>. Phenobarbital is soluble in alcohol. See <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2977013>

know?" (Emphasis added).³⁸

D. The Death Certificate Will List a Terminal Illness as the Cause of Death, Which Will Prevent Prosecution for Murder

The bill states:

The death certificate must list the underlying terminal illness as the cause of death.³⁹

The significance of requiring a terminal illness 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 illness (not murder) as a matter of law.

More to the point, a perpetrator will be let off the hook: The bill will create the perfect crime.

E. Someone Else Is Allowed to Administer the Lethal Dose to the Patient

HB 160 allows someone else, including family members, to administer the lethal dose to the patient. This is true for two reasons:

1. Generally accepted medical practice

The bill describes prescribing the lethal dose as part of a doctor's "medical practice."⁴⁰ Generally accepted medical

³⁸ 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

³⁹ The bill, § 2504B (12) (b), attached hereto at A-104, lines 95-96.

⁴⁰ The bill, § 2501B (2), states:

"Attending physician" means the physician who has primary responsibility for the care of the patient and

practice allows a doctor, or a person acting under the direction of a doctor, to administer prescription drugs to a patient.⁴¹

Common examples of persons acting under the direction of a doctor include parents who administer prescription drugs to their children and adult children who administer prescription drugs to their parents.⁴²

The bill also says that a patient may self-administer the lethal dose.⁴³ There is no language, however, that administration "must" be by self-administration.⁴⁴

With self-administration not mandatory, generally accepted medical practice allows a doctor, or a person acting under the direction of the doctor, to administer the lethal dose (a prescription drug) to the patient.

2. The act of ingesting

The bill also refers to administration of the lethal dose as

treatment of the patient's terminal disease, and who routinely provides medical care to patients with advanced and terminal illnesses in the normal course of their medical practice. Such practice may not be primarily or solely comprised of persons requesting medication to end their life in a humane and dignified manner. (Emphasis added).

Attached hereto at A-101, lines 7 to 10.

⁴¹ Declaration of Kenneth Stevens, MD, January 6, 2016, attached hereto at A-39 to A-40, relevant material at ¶¶ 9 & 10.

⁴² Id.

⁴³ HB 160, § 2502B(7), at A-102, line 24 ("the individual may self-administer")

⁴⁴ See HB 160 in its entirety, attached hereto at A-101 to A-111.

"the act of ingesting."⁴⁵ The bill does not define "ingest."⁴⁶

Dictionary definitions include:

[T]o take (food, drugs, etc.) into the body,
as by swallowing, inhaling, or absorbing."
(Emphasis added).⁴⁷

With this definition, someone else putting the lethal dose in the 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, *i.e.*, "ingesting" it.

With administration of the lethal dose described as mere ingesting, someone else is allowed to administer the lethal dose to the patient.

F. Allowing Someone Else to Administer the Lethal Dose Is Euthanasia

Allowing someone else to administer the lethal dose to a

⁴⁵ See HB 160 § 2516B (d), which states:

"A qualified patient's act of ingesting medication to end their life in a humane and dignified manner pursuant to this chapter may not have an effect under a life, a health, or an accident insurance or annuity policy that differs from the effect under the policy of the patient's death from natural causes."
(Emphasis added).

⁴⁶ See HB 160 in its entirety, attached hereto at A-101 to A-111.

⁴⁷ See definition of "ingest" attached at A-66, which can also be viewed at <https://choiceisanillusion.files.wordpress.com/2014/04/definitions-of-ingest.pdf>

patient is "euthanasia" under generally accepted medical terminology. The American Medical Association's Ethics Opinion, "Euthanasia," 5.8 states:

Euthanasia is the administration of a lethal agent by another person to a patient . . . (Emphasis added).⁴⁸

The bill allows euthanasia as traditionally defined.

G. Euthanasia Is Not Prohibited

The bill appears to prohibit euthanasia, which is another word for "mercy killing."⁴⁹ The bill states:

Nothing in this chapter authorizes a physician or any other person to end a patient's life by lethal injection, mercy killing or active euthanasia.⁵⁰

This prohibition is defined away in the next sentence:

Actions taken in accordance with this chapter do not, for any purpose, constitute suicide, assisted suicide, mercy killing [euthanasia] or homicide.⁵¹

H. Patient Protections Are Irrelevant

The bill describes patient protections in mandatory terms, for example, that the attending physician "shall" refer the patient to a consulting physician

for medical confirmation of the terminal disease diagnosis and for a confirmation that

⁴⁸ Opinion 5.8, Attached hereto at A-5 (lower half of the page).

⁴⁹ See definitions attached hereto at A-41.

⁵⁰ HB 160, § 2517B (a), attached hereto at A-107, lines 185 to 186.

⁵¹ Id., at 186 to 187.

the patient is capable and acting voluntarily.⁵²

The bill, however, also says that actions shall be in "accordance" with the bill, which is not defined.⁵³ Dictionary definitions include "in the spirit of," meaning in thought or intention.⁵⁴ A mere thought to comply is good enough.⁵⁵

For an example of how accordance is used in practice, see below regarding Washington State: Compliance with patient protections is irrelevant.

X. NO TRANSPARENCY, NO ACCOUNTABILITY

A. If Delaware Follows Washington State, There Will Be an Official Legal Cover Up

Again, the bill states:

The death certificate must list the underlying terminal illness as the cause of death.⁵⁶

[and]

⁵² HB 160, § 2504B(a)(4), attached at A-103, lines 61 to 73.

⁵³ See e.g., HB 160, § 2504B(a)(11), lines 62 to 85, which states:

The attending physician shall do all of the following:
. . .

(11) Ensure that all appropriate steps are carried out in accordance with the provisions of this chapter prior to writing a prescription for medication to enable a qualified patient to end their life in a humane and dignified manner. (Emphasis added).

⁵⁴ See "accordance" definition attached hereto at A-42, and "in the spirit" definition attached hereto at A-67.

⁵⁵ Id.

⁵⁶ HB 160, § 2504B (12)(b), attached hereto at A-104, lines 95-96.

Actions taken in accordance with this chapter do not, for any purpose, constitute suicide, assisted suicide, mercy killing [euthanasia] or homicide.⁵⁷

In Washington State, nearly identical language is interpreted by the Washington State Department of Health (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 inquiry is whether Washington's law was "used."

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

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

⁵⁷ Id., § 2517, lines 186 to 187.

- 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.)⁵⁸

If Delaware enacts the proposed bill and follows Washington State, death certificates will not even hint that the actual cause of death was assisted suicide or euthanasia. This will happen simply because the bill was used and without regard to whether there was compliance with patient protections. There will be an official legal cover up.

B. If Delaware Follows Oregon's Interpretation of "Not a Public Record," the Bill Will Create a Government Entity Above the Law

The bill charges an unnamed "Department" with issuing an annual statistical report based on data collected pursuant to the bill.⁵⁹ The bill also states:

Except as otherwise required by law, the information collected is not a public record and may not be made available for inspection by the public. (Emphasis added).⁶⁰

⁵⁸ A copy of the Washington State Department of Health death certificate instruction is attached hereto at A-43.

⁵⁹ HB 160, § 2514B (d), states: "The Department shall generate and make available to the public an annual statistical report of information collected under of this section." (Attached hereto at A-106, lines 159-160).

⁶⁰ Id. at lines 157 to 158.

Oregon's law has a nearly identical provision, as follows:

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).⁶¹

In Oregon, this nearly identical provision is interpreted to bar release of information about individual cases. 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....⁶²

Consider also this e-mail from Alicia Parkman, Mortality Research Analyst for the Oregon Health Authority, clarifying that even law enforcement is barred from obtaining individual identities. She states:

We have been contacted by law enforcement . . . in the past, but have not provided identifying information of any type. (Emphasis added).⁶³

If Delaware enacts HB 160 and follows Oregon's interpretation of "not a public record," there will be a similar

⁶¹ ORS 127.865 s.3.11(2) (Attached hereto at A-44)

⁶² Oregon Data Release Policy, copy attached hereto at A-62.

⁶³ E-mail from Alicia Parkman to me, 01/04/12, attached hereto at A-63.

lack of transparency in which even law enforcement will have no access to information about individual cases. The bill will create a government entity above the law.

C. If Delaware Follows Oregon's Data Collection Protocol, Patient Identities Will Not Be Recorded in Any Manner, 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).⁶⁴

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).⁶⁵

The significance is that Oregon's annual reports are unverifiable. If Delaware follows Oregon, Delaware's annual reports will also be unverifiable.

⁶⁴ Oregon Health Authority, Frequently Asked Questions, attached at A-67.

⁶⁵ E-mail from Alicia Parkman to Margaret Dore, 01/04/12, attached hereto at A-63.

D. If Delaware Follows the Oregon Experience, a Non-Governmental Entity Will Displace the State to Become the Defacto "Agency" Overseeing HB 160

Passage of Oregon's law was spearheaded by the suicide promotion group, Compassion & Choices.⁶⁶ In Oregon, this organization has used Oregon law to disable and displace the Department of Health as the entity overseeing Oregon's law. Please consider the following.

In 2010, I had client who wanted to know if his father had died under Oregon's law. I referred him to an Oregon attorney, Isaac Jackson, who asked the police to investigate. Jackson's declaration states:

3. In 2010, I was retained by a client whose father had apparently died under Oregon's law. The client wanted to know whether that was true. I therefore made inquiry on his behalf. However and unlike other deaths I have investigated, it was difficult to get information. . . .

7. Per my request, a police officer was assigned to the case. Per the officer's confidential report, he did not interview my client, but he did interview people who had witnessed the decedent's death.

8. 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. The officer's report also describes that he was unable to get this information from the Oregon Health Authority, which was not

⁶⁶ Compassion & Choices is a successor organization to the Hemlock Society, originally founded by suicide promoter, Derek Humphry. See newsletter attached hereto at A-73

willing to confirm or deny whether the deceased had used the act (Emphasis added).⁶⁷

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

XI. TRAUMA

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.⁶⁸ 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.⁶⁹

⁶⁷ Isaac Jackson, Declaration of Testimony, 09/18/12, at A-57 to A-58.

⁶⁸ "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) 1602-1606, available at <http://choiceisanillusion.files.wordpress.com/2012/10/family-members-traumatized-eur-psych-2012.pdf> (Cover page attached hereto at A-68)

⁶⁹ *Id.*, at A-68.

B. 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 his (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 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.

XII. SUICIDE CONTAGION

Government reports from Oregon show a positive correlation between the legalization of physician-assisted suicide and an increase in other (conventional) suicides. This correlation is consistent with a suicide contagion in which legalizing physician-assisted suicide encouraged other suicides. Consider

the following:

Oregon's assisted suicide act went into effect "in late 1997."⁷⁰

By 2000, Oregon's conventional suicide rate was "increasing significantly."⁷¹

By 2007, Oregon's conventional suicide rate was 35% above the national average.⁷²

By 2010, Oregon's conventional suicide rate was 41% above the national average.⁷³

By 2012, Oregon's conventional suicide rate was 42% above the national average.⁷⁴

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.⁷⁵

XIII. CONCLUSION

Passing the proposed bill will encourage people with years or decades to live to throw away their lives.

⁷⁰ Oregon's assisted suicide report for 2014, first line, at <http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Documents/year17.pdf>

⁷¹ 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-60)

⁷² Report excerpt at A-62

⁷³ Oregon Health Authority Report, attached at A-64.

⁷⁴ Attached at A-65.

⁷⁵ See report at A-.

Administration of the lethal dose is allowed to occur in private without a doctor or witness present. If the patient objected, or even struggled, who would know?

The death certificate will list a terminal illness as the cause of death. This will prevent prosecution for murder, no matter what the facts. The bill, if enacted, will create the perfect crime. Don't make Oregon and Washington's mistake. I urge you to reject HB 160.

Respectfully Submitted,

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