

IN THE STATE OF SOUTH DAKOTA

IN RE AN INITIATED MEASURE

DECLARATION OF WILLIAM
TOFFLER, MD

I, WILLIAM TOFFLER, declare the following under penalty of perjury.

1. I am a professor of Family Medicine and a practicing physician in Oregon for over 30 years. I write to provide some insight on the issue of physician-assisted suicide, which is legal in Oregon, and which I understand has been proposed for legalization in South Dakota.

2. Oregon's law applies to persons with a terminal disease who are predicted to have less than six months to live. Our law states:

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

Exhibit A, attached hereto.

3. In practice, this definition is interpreted to include people with chronic conditions such as "chronic lower respiratory disease" and "diabetes mellitus," better known as "diabetes."

4. Attached hereto, as Exhibits B-1 & B-2, are excerpts from

the most recent government statistical report regarding our law. The excerpts list chronic lower respiratory disease and diabetes mellitus as "underlying illnesses" sufficient to justify assisted suicide. The full report can be read at this link:

<http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Documents/year19.pdf>

5. In Oregon, people with chronic conditions are "terminal," 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.

6. 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. They can live happy, healthy and productive lives.

Signed under penalty of perjury, this 20th day of April 2017

William L Toffler MD

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
Oregon Revised Statute

Chapter 127

Contact Us

Note: The division headings, subdivision headings and leadlines for 127.800 to 127.890, 127.895 and 127.897 were enacted as part of Ballot Measure 16 (1994) and were not provided by Legislative Counsel.

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Please browse this page or  [download the statute](#) for printing - (or *read the statute at <https://www.oregonlegislature.gov>*). If you are looking for data, you can find it on our [Annual Report](#) page.

127.800 s.1.01. Definitions.

The following words and phrases, whenever used in ORS 127.800 to 127.897, have the following meanings:

- (1) "Adult" means an individual who is 18 years of age or older.
- (2) "Attending physician" means the physician who has primary responsibility for the care of the patient and treatment of the patient's terminal disease.
- (3) "Capable" means that in the opinion of a court or in the opinion of the patient's attending physician or consulting physician, psychiatrist or psychologist, a patient has the ability to make and communicate health care decisions to health care providers, including communication through persons familiar with the patient's manner of communicating if those persons are available.
- (4) "Consulting physician" means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient's disease.
- (5) "Counseling" means one or more consultations as necessary between a state licensed psychiatrist or psychologist and a patient for the purpose of determining that the patient is capable and not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.
- (6) "Health care provider" means a person licensed, certified or otherwise authorized or permitted by the law of this state to administer health care or dispense medication in the ordinary course of business or practice of a profession, and includes a health care facility.
- (7) "Informed decision" means a decision by a qualified patient, to request and obtain a prescription to end his or her life in a humane and dignified manner, that is based on an appreciation of the relevant facts and after being fully informed by the attending physician of:
 - (a) His or her medical diagnosis;
 - (b) His or her prognosis;
 - (c) The potential risks associated with taking the medication to be prescribed;
 - (d) The probable result of taking the medication to be prescribed; and
 - (e) The feasible alternatives, including, but not limited to, comfort care, hospice care and pain control.
- (8) "Medically confirmed" means the medical opinion of the attending physician has been confirmed by a consulting physician who has examined the patient and the patient's relevant medical records.
- (9) "Patient" means a person who is under the care of a physician.
- (10) "Physician" means a doctor of medicine or osteopathy licensed to practice medicine by the Board of Medical Examiners for the State of Oregon.
- (11) "Qualified patient" means a capable adult who is a resident of Oregon and has satisfied the requirements of ORS 127.800 to 127.897 in order to obtain a prescription for medication to end his or her life in a humane and dignified manner.

(12) "Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six months. [1995 c.3 s.1.01; 1999 c.423 s.1]

(Written Request for Medication to End One's Life in a Humane and Dignified Manner)

(Section 2)

127.805 s.2.01. Who may initiate a written request for medication.

TOFFLER EXHIBIT A

A-23

Characteristics	2016	1998–2015	Total
	(N=133)	(N=994)	(N=1,127)
Residence			
Metro counties (Clackamas, Multnomah, Washington) (%)	54 (40.9)	427 (43.3)	481 (43.0)
Coastal counties (%)	10 (7.6)	70 (7.1)	80 (7.1)
Other western counties (%)	57 (43.2)	413 (41.8)	470 (42.0)
East of the Cascades (%)	11 (8.3)	77 (7.8)	88 (7.9)
Unknown	1	7	8
End of life care			
Hospice			
Enrolled (%)	118 (88.7)	868 (90.4)	986 (90.2)
Not enrolled (%)	15 (11.3)	92 (9.6)	107 (9.8)
Unknown	0	34	34
Insurance			
Private (%)	35 (29.7)	534 (57.1)	569 (54.0)
Medicare, Medicaid or other governmental (%)	82 (69.5)	388 (41.5)	470 (44.6)
None (%)	1 (0.8)	13 (1.4)	14 (1.3)
Unknown	15	59	74
Underlying illness			
Malignant neoplasms (%)	105 (78.9)	767 (77.2)	872 (77.4)
Lung and bronchus (%)	16 (12.0)	177 (17.8)	193 (17.1)
Breast (%)	12 (9.0)	74 (7.4)	86 (7.6)
Colon (%)	12 (9.0)	61 (6.1)	73 (6.5)
Pancreas (%)	9 (6.8)	64 (6.4)	73 (6.5)
Prostate (%)	6 (4.5)	41 (4.1)	47 (4.2)
Ovary (%)	3 (2.3)	37 (3.7)	40 (3.5)
Other (%)	47 (35.3)	313 (31.5)	360 (31.9)
Amyotrophic lateral sclerosis (%)	9 (6.8)	80 (8.0)	89 (7.9)
Chronic lower respiratory disease (%)	2 (1.5)	44 (4.4)	46 (4.1)
Heart disease (%)	9 (6.8)	26 (2.6)	35 (3.1)
HIV/AIDS (%)	0 (0.0)	10 (1.0)	10 (0.9)
Other illnesses (%)²	8 (6.0)	67 (6.7)	75 (6.7)
DWDA process			
Referred for psychiatric evaluation (%)	5 (3.8)	52 (5.3)	57 (5.1)
Patient informed family of decision (%) ³	119 (89.5)	858 (93.6)	977 (93.0)
Patient died at			
Home (patient, family or friend) (%)	117 (88.6)	931 (94.0)	1,048 (93.4)
Long term care, assisted living or foster care facility (%)	9 (6.8)	46 (4.6)	55 (4.9)
Hospital (%)	3 (2.3)	1 (0.1)	4 (0.4)
Other (%)	3 (2.3)	12 (1.2)	15 (1.3)
Unknown	1	4	5

See next page (p. 11)

TOFFLER EXHIBIT B-1

Characteristics	2016	1998–2015	Total
	(N=133)	(N=994)	(N=1,127)
Timing of DWDA event			
Duration (weeks) of patient-physician relationship			
Median	18	12	13
Range	1–1,484	0–1,905	0–1,905
<i>Number of patients with information available</i>	132	992	1,124
<i>Number of patients with information unknown</i>	1	2	3
Duration (days) between first request and death			
Median	56	46	48
Range	15–539	14–1,009	14–1,009
<i>Number of patients with information available</i>	133	994	1,127
<i>Number of patients with information unknown</i>	0	0	0
Minutes between ingestion and unconsciousness			
Median	4	5	5
Range	1–60	1–38	1–60
<i>Number of patients with information available</i>	24	532	556
<i>Number of patients with information unknown</i>	109	462	571
Minutes between ingestion and death			
Median	27	25	25
Range	7min–9hrs	1min–104hrs	1min–104hrs
<i>Number of patients with information available</i>	25	537	562
<i>Number of patients with information unknown</i>	108	457	565

1 Unknowns are excluded when calculating percentages.

2 Includes deaths due to benign and uncertain neoplasms, other respiratory diseases, diseases of the nervous system (including multiple sclerosis, Parkinson's disease and Huntington's disease), musculoskeletal and connective tissue diseases, viral hepatitis, diabetes mellitus, cerebrovascular disease, and alcoholic liver disease.

3 First recorded beginning in 2001. Since then, 52 patients (4.9%) have chosen not to inform their families, and 21 patients (2.0%) have had no family to inform. There was one unknown case in 2002, two in 2005, one in 2009, and three in 2013.

4 Affirmative answers only ("Don't know" included in negative answers). Categories are not mutually exclusive. Data unavailable for four patients in 2001.

5 First asked in 2003. Data available for 133 patients in 2016, 863 patients between 1998–2015, and 996 patients for all years.

6 A procedure revision was made mid-year in 2010 to standardize reporting on the follow-up questionnaire. The new procedure accepts information about time of death and circumstances surrounding death only when the physician or another health care provider is present at the time of death. This resulted in a larger number of unknowns beginning in 2010.

7 There have been a total of six patients who regained consciousness after ingesting prescribed lethal medications. These patients are not included in the total number of DWDA deaths. These deaths occurred in 2005 (1 death), 2010 (2 deaths), 2011 (2 deaths) and 2012 (1 death). Please refer to the appropriate years' annual reports on our website (<http://www.healthoregon.org/dwd>) for more detail on these deaths.