Appendix

Margaret Dore Memo

Reject HB 160

No Transparency,

No Accountability

as of

June 11, 2017
(4) The consulting physician’s diagnosis and prognosis, and verification that the patient is capable, is acting voluntarily, and has made an informed decision.

(5) A report of the outcome and determinations made during counseling, if performed.

(6) The attending physician’s offer to the patient to rescind the patient’s request at the time of the patient’s second oral request pursuant to § 2509B of this chapter.

(7) A note by the attending physician indicating that all requirements of this chapter have been met and indicating the steps taken to carry out the request, including a notation of the medication prescribed.

§ 2513B. Residency requirement.

(a) Only requests made by Delaware residents under this chapter may be granted.

(b) Factors demonstrating Delaware residency include:

(1) Possession of a Delaware driver license.

(2) Registration to vote in Delaware.

(3) Evidence that the person owns or leases property in Delaware.

(4) The filing of a Delaware tax return for the most recent tax year.

§ 2514B. Reporting requirements and comprehensive guidelines.

(a) The Department may annually review a sample of records maintained pursuant to § 2501B through § 2518B of this chapter.

(b) The Department shall require any health care provider upon dispensing medication pursuant to § 2501B through § 2518B of this chapter to file a copy of the dispensing record with the Department.

(c) The Department shall make rules and regulations to facilitate the collection of information regarding compliance with this chapter. 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.

(d) The Department shall generate and make available to the public an annual statistical report of information collected under of this section.

(e) The Department shall develop comprehensive guidelines designed to be a resource for health care professionals and institutions implementing the provisions of this chapter.

§ 2515B. Effect on construction of wills, contracts, and statutes.

(a) Any provision in a will, contract, or other agreement, whether written or oral, to the extent the provision would affect whether a person may make or rescind a request for medication to end their life in a humane and dignified manner, is void and unenforceable.
127.865. § 3.11. Reporting requirements [FN 1], OR ST § 127.865

O.R.S. § 127.865

127.865. § 3.11. Reporting requirements ¹

Currentness

(1)(a) The Oregon Health Authority shall annually review a sample of records maintained pursuant to ORS 127.800 to 127.897.

(b) The authority shall require any health care provider upon dispensing medication pursuant to ORS 127.800 to 127.897 to file a copy of the dispensing record with the authority.

(2) The authority shall make rules to facilitate the collection of information regarding compliance with ORS 127.800 to 127.897. 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.

(3) The authority shall generate and make available to the public an annual statistical report of information collected under subsection (2) of this section.

Credits

Footnotes
¹ Section title supplied by initiative petition.
O. R. S. § 127.865, OR ST § 127.865
Release of Information Regarding the Death with Dignity Act

The Death with Dignity Act requires that the Oregon Health Authority collect information pertaining to compliance (ORS 127.865 (2)) and to make available to the public an annual statistical report (ORS 127.865 (3)).

The Oregon Health Authority's role is limited to collecting information so that we can monitor compliance and provide a report regarding the effects of this legislation.

Confidentiality is critical and the 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 from releasing information that identifies patients or participants, to the public, media, researchers, students, advocates, or other interested parties.

The Oregon Health Authority will NOT confirm on a case-by-case basis whether an individual has used, or a provider has been involved with, Death with Dignity. We will not release a report when the first case occurs and we will not respond to questions regarding number of cases within a specific time period.

Within the principles of confidentiality, the Oregon Health Authority will publish an annual report which will include information on how many prescriptions are written, and how many people actually take the prescribed medication. The specificity of any data released will depend upon whether we can ensure that confidentiality will not be breached.

To reiterate, the Oregon Health Authority's role in reporting on the Death with Dignity Act is similar to other public health data we collect. The data are population-based and our charge is to maintain surveillance of the overall effect of the Act. The data are to be presented in an annual report, but the information collected is required to be confidential. Therefore, case-by-case information will not be provided, and specificity of data released will depend on having adequate numbers to ensure that confidentiality will be maintained.
RE: Death with Dignity Act

1 message

Parkman Alicia A <alicia.a.parkman@state.or.us> Wed, Jan 4, 2012 at 7:57 AM

To: Margaret Dore <margaretdore@margaretdore.com>
Cc: BURKOVSKAIA Tamara V <tamara.v.burkovskaia@state.or.us>

Thank you for your email regarding Oregon’s Death with Dignity Act. For all of your questions, the answer is no. Since our office is charged with maintaining absolute confidentiality, our policy is to never release identifying information. We can neither confirm nor deny participation of any individual patient or physician. We have been contacted by law enforcement and legal representatives in the past, but have not provided identifying information of any type. To ensure confidentiality, our office does not maintain source documentation on participants.

Please let me know if you have further questions.

Thank you,
Alicia

Alicia Parkman
Mortality Research Analyst
Center for Health Statistics
Oregon Health Authority
Ph: 971-673-1150
Fax: 971-673-1201

From: Margaret Dore [mailto:margaretdore@margaretdore.com]
Sent: Monday, January 02, 2012 5:48 PM
To: alicia.a.parkman@state.or.us
Subject: Death with Dignity Act

Thank you for answering my prior questions about Oregon’s death with dignity act.

I have these follow up questions:

https://mail.google.com/mail/u/0/?ui=2&ik=a7fe5d839e&view=pt&as_has=Burkovskaia&as_sizeoperator=s_s&as_sizeunit=s_smb&as_subset=all&as_within=...
return. It is up to the attending physician to determine whether or not the patient has adequately established residency.

Q: How long does someone have to be a resident of Oregon to participate in the Act?
A: There is no minimum residency requirement. A patient must be able to establish that s/he is currently a resident of Oregon.

Q: Can a non-resident move to Oregon in order to participate in the Act?
A: There is nothing in the law that prevents someone from doing this. However, the patient must be able to prove to the attending physician that s/he is currently a resident of Oregon.

Q: Are participating patients reported to the State of Oregon by name?
A: The State does collect the names of patients in order to cross-check death certificates. However, the law guarantees the confidentiality of all participating patients (as well as physicians) and the Oregon Health Authority does not release this information to the public or media. 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.

Q: Who can give a patient a prescription under the Act?
A: Patients who meet certain criteria can request a prescription for lethal medication from a licensed Oregon physician. The physician must be a Doctor of Medicine (M.D.) or Doctor of Osteopathy (D.O.) licensed to practice medicine by the Board of Medical Examiners for the State of Oregon. The physician must also be willing to participate in the Act. Physicians are not required to provide prescriptions to patients and participation is voluntary. Additionally, some health care systems (for example, a Catholic hospital or the Veteran’s Administration) have prohibitions against practicing the Act that physicians must abide by as terms of their employment.

Q: If a patient’s doctor does not participate in the Act, how can s/he get a prescription?
A: The patient must find another M.D. or D.O. licensed to practice medicine in Oregon who is willing to participate. The Oregon Health Authority does not recommend doctors, nor do we provide the names of participating physicians or patients due to the need to protect confidentiality.

Q: If a patient’s primary care doctor is located in another state, can that doctor write a prescription for the patient?
A: No. Only M.D.s or D.O.s licensed to practice medicine by the Board of Medical Examiners for the State of Oregon can write a valid prescription for lethal medication under the Act.
Derek Humphry to be Keynote Speaker at 2011 Annual Meeting

This year our keynote speaker will be Derek Humphry, the author of *Final Exit* and the founder of the Hemlock Society USA in 1980. Derek is generally considered to be the father of the modern movement for choice at the end of life in America.

Derek is a British journalist and author who has lived in the United States since 1978, the same year he published the book *Jean's Way* describing his first wife's final years of suffering from cancer and his part in helping her to die peacefully. The public response to the book caused him to start the Hemlock Society USA in 1980 from his garage in Santa Monica. Years later, the Hemlock Society would become End of Life Choices and then merge with Compassion In Dying to become Compassion & Choices.

In 1991 he published *Final Exit*. Much to his surprise, it became the national #1 bestseller within six months. Since then it has been translated into 12 languages and is now in its fourth edition.

Although not affiliated with – and sometimes even at odds with – Compassion & Choices, Derek is still actively involved in the movement. Always interesting and sometimes controversial, Derek will provide our supporters and their guests with his perspective about the evolution of the movement for choice at the end of life in America.
DECLARATION OF TESTIMONY

I, Isaac Jackson, declare under penalty of perjury the following:

1. I am a lawyer licensed to practice law in the State of Oregon, USA. I am in private practice with my own law firm specializing in injury claims, including wrongful death cases. I previously served as a Law Clerk to Judge Charles Carlson of the Lane County Circuit Court. I was also an associate lawyer with a firm that specializes in insurance defense and civil litigation.

2. I write to inform the court regarding a lack of transparency under Oregon’s assisted suicide act. Even law enforcement is denied access to information collected by the State of Oregon. Moreover, according to the current Oregon State website, this lack of access is official Oregon State Policy.

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.

4. I wrote Dr. Hedberg, the State epidemiologist. Attached hereto as Exhibit 1 is a true and correct copy of a letter I received back from the Office of the Attorney General of Oregon dated November 3, 2010. The letter describes that the Oregon Health Authority is only allowed to release annual statistical information about assisted suicide deaths. The letter states:

   ORS [Oregon Revised Statutes] 127.865 prevents OHA [Oregon Health Authority] from releasing any information to you or your client. OHA may only make public annual statistical information.

5. I also wrote the Oregon Medical Board. Attached hereto as Exhibit 2 is a true and correct redacted copy of a letter I received back, dated November 29, 2010, which states in part:

   While sympathetic to [your client’s] concerns about the circumstances of his father’s death, the Board is not able to provide the information requested. The Board does not possess the requested documents nor does the Board routinely receive these documents. Under Oregon law the Oregon Department of Health collects these documents for their purposes. Further, if the Board did have the documents as a part of an investigation, the Board would be prevented from releasing them by ORS 676.175. See Exhibit 2.

6. I also received a copy of the decedent’s death certificate, which is the official death record in Oregon. A true and correct, but redacted copy, is attached hereto as Exhibit 3. The “immediate cause of death” is listed as “cancer.” The “manner of death” is listed as “Natural.”

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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 death was under Oregon’s assisted suicide law act 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 willing to confirm or deny whether the deceased had used the act. The officer closed the case.

9. Attached hereto as Exhibit 4 is a true and correct copy of the Oregon Health Authority’s data release policy, as of September 18, 2012, which states in part:

   The Death with Dignity Act requires that the Oregon Health Authority collect information pertaining to compliance (ORS 127.865 (2)) and to make available to the public an annual statistical report (ORS 127.865 (3)).

   The Oregon Health Authority’s role is limited to collecting information so that we can monitor compliance and provide a report regarding the effects of this legislation. Confidentiality is critical and the 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 from releasing information that identifies patients or participants, to the public, media, researchers, students, advocates, or other interested parties.

   The Oregon Health Authority will NOT confirm on a case-by-case basis whether an individual has used, or a provider has been involved with, Death with Dignity. We will not release a report when the first case occurs and we will not respond to questions regarding number of cases within a specific time period. (Emphasis in original).

Pursuant to Oregon Rules of Civil Procedure 1E, I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Dated Sept. 18 2012

Isaac Jackson, OSB 055494
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Eugene, OR 97404
541.225.5061
Jackson@irjlaw.com
Isaac Jackson
Jackson Law Office, LLC
P.O. Box 279
Eugene, OR 97440

Re: Death with Dignity Act Records Request

Dear Mr. Jackson:

Dr. Hedberg, the state epidemiologist, received your letter dated October 27, 2010, requesting certain Death with Dignity Act records that may have been filed under OAR 333-009-0010. If records cannot be provided, you also ask Dr. Hedberg to investigate the existence of the documents and report findings to you, or lastly, to at least verify whether the Oregon Health Authority (OHA) has any record of contact with your client's deceased father. In sum, your client would like any information that might shed light on his father's death.

While Dr. Hedberg understands the difficult time your client must be going through, ORS 127.865 prevents OHA from releasing any information to you or your client. OHA may only make public annual statistical information. Please be assured that if irregularities are found on paperwork submitted to the OHA under OAR 333-009-0010, OHA can and has reported information to the Oregon Medical Board who can then investigate the matter.

I understand that you are in the process of getting the death certificate for your client's father and that may shed some light on the matter for your client. If your client believes that some nefarious actions have taken place he certainly could contact law enforcement.

Please contact me if you have additional questions.

Sincerely,

Shannon K. O'Fallon
Senior Assistant Attorney General
Health and Human Services Section

SKO: vde/Justice# 2345752
cc: Katrina Hedberg, M.D, DHS
November 29, 2010

Isaac Jackson
Jackson Law Office
PO Box 279
Eugene, OR 97440

Re: Donald John Norton & Patrick Norton

Dear Mr. Jackson:

The Oregon Medical Board has received your letter regarding and his death, apparently under the Oregon Death with Dignity Act. In order for the Board to proceed with a formal investigation, a medical and/or legal basis must exist to support an allegation that a physician licensed by the Board may have violated Oregon law. In our review of the information that you presented we did not find a physician identified nor was there a specific allegation of misconduct on the part of a physician. As such, the board is not able to initiate a formal investigation.

While sympathetic to concerns about the circumstances of his father's death, the Board is not able to provide the information requested. The Board does not possess the requested documents nor does the Board routinely receive these documents. Under Oregon law the Oregon Department of Human Services collects these documents for their purposes. Further, if the Board did have the documents as a part of an investigation, the Board would be prevented from releasing them by ORS 676.175.

Thank you for bringing your concerns to the attention of the Oregon Medical Board. If you have any further questions regarding this matter, you may contact me at 971-673-2702.

Sincerely,

Randy H. Dale
Complaint Resource Officer
Investigations/Compliance Unit
CERTIFICATE OF DEATH
OREGON DEPARTMENT OF HUMAN SERVICES
CENTER FOR HEALTH STATISTICS

Legal Name
First
Name
Middle
Name
Last
Name
Sex
Male
Age
Social Security Number
County of Death
was Decedent Ever in U.S. Armed Forces?
Residence County
State or Foreign County
Oregon
Zip Code + 4
Inside City Limits?
Residence State or City
Spouse’s Name Prior to First Marriage
Manner of Death
Natural
Date of Injury
Time of Injury
Place of Injury
Injury at Work?
Other significant conditions contributing to Death

Manner of Death
Natural
Date of Injury
Time of Injury
Place of Injury
Injury at Work?

Other significant conditions contributing to Death

Redacted

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Data Release Policy

Release of Information Regarding the Death with Dignity Act

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Frequently Asked Questions Related to Additional Data Requests

http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignity...