

I. INTRODUCTION

HB 160 legalizes assisted suicide and euthanasia as those terms are traditionally defined. The bill is based on a similar law in Oregon, which has a near complete lack of transparency.

If Delaware enacts HB 160 and follows Oregon practice, there will be a similar lack of transparency. The safety and welfare of individual patients will be unverifiable from state sources.

II. DISCUSSION

A. If Delaware Follows Oregon's Interpretation of "Not a Public Record," the Bill Will Create a Government Entity Insulated from Review, Even by Law Enforcement

The bill charges an unnamed "Department" with issuing an annual statistical report based on data collected pursuant to the bill.¹ 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).²

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).³

¹ 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-1, lines 159-160).

² Id. at lines 157 to 158.

³ ORS 127.865 s.3.11(2), attached hereto at A-2.

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 (Emphasis added).⁴

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).⁵

If Delaware enacts HB 160 and follows Oregon's interpretation of "not a public record," there will be a similar lack of transparency in which even law enforcement will have no access to information about individual cases. The bill will create a government entity above the law.

⁴ Release of Information Regarding the Death with Dignity Act, at A-3.

⁵ E-mail from Alicia Parkman to me, 01/04/12, attached hereto at A-4.

B. 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).⁶

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).⁷

The significance is that Oregon's annual reports cannot be verified to source documentation. If Delaware follows Oregon, Delaware's reports will also be unverifiable.

C. 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.⁸ In Oregon, this

⁶ Oregon Health Authority, Frequently Asked Questions, attached at A-5.

⁷ E-mail from Parkman to Dore, 01/04/12, supra, attached hereto at A-4.

⁸ Compassion & Choices is a successor organization to the Hemlock Society, founded by suicide promoter, Derek Humphry. See newsletter attached at A-6.

organization has used Oregon's law to disable and displace the Department of Health as the entity overseeing that law. Consider this example.

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, who asked the police to investigate. The attorney's declaration states:

The officer's report describes how he determined that the 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 willing to confirm or deny whether the deceased had used the act (Emphasis added).⁹

I also read the officer's report. Per 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 "agency" overseeing Oregon's law.

III. CONCLUSION

The proposed Oregon-style "oversight" is a sham and will create the opportunity for a non-governmental entity to displace government oversight. The safety and welfare of individuals will be unverifiable from state sources. I urge you to vote "No" on

⁹ Isaac Jackson, Declaration of Testimony, 09/18/12, attached A-8, ¶ 8. The entire declaration can be viewed at A-7 through A-12.

HB 160.

Respectfully submitted this 11th day of June 2017

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