Top Reasons to Oppose Assisted Suicide

Assisted suicide is a **deadly mix** with our profit-driven health care system

- Some patients in Oregon have received word from the Oregon Health Plan that it will pay for assisted suicide but will not pay for treatment that may sustain their lives.[1]

- Patients enrolled in private health plans are meeting with similar discrimination and pressure to commit suicide. One patient in California was told by her insurance company that it would not pay for her life-extending treatment but that she "would only have to pay $1.20" for drugs to commit suicide.[2]

- Nevada physician Dr. Brian Callister testifies that when he tried to transfer patients to their home states of Oregon and California for treatments not available in his state, insurers in both states rejected his effort and instead volunteered, "would you consider assisted suicide?" Dr. Callister says both patients had good chances for a cure with treatment but will be terminal without it.[3]

- One well-known advocate of assisted suicide has written openly of the unacceptable "burden" of caring for elderly Americans, declaring that "in the final analysis, economics, not the quest for broadened individual liberties or increased autonomy, will drive assisted suicide to the plateau of acceptable practice."[4]

Assisted suicide invites **coercion** putting vulnerable persons at risk of abuse

- Once lethal drugs have been prescribed, assisted suicide laws have *no* requirements for assessing the patient's consent, competency, or voluntariness. Who would know if the drugs are freely taken since there is no supervision or tracking of the drugs once they leave the pharmacy and since no witnesses are required at the time of death?

- Elder abuse is considered a major health problem in the United States with federal estimates that one in ten elder persons are abused.[5] Placing lethal drugs into the hands of abusers generates an additional major risk to elder persons.

- Despite a reporting system designed to conceal rather than detect abuses, reports of undue influence have nonetheless surfaced in Oregon. In one case, a woman with cancer committed suicide with a doctor's assistance though she had dementia, was found mentally incompetent by doctors, and had a grown daughter described as "somewhat coercive" in pushing her toward suicide.[6]

- The U. S. Supreme Court has also recognized "the real risk of subtle coercion and undue influence" that assisted suicide poses.[7] The justices heeded the warning of the New York Task Force that "[l]egalizing physician-assisted suicide would pose profound risks to many individuals who are ill and vulnerable.... The risk of harm is greatest for the many individuals in our society whose autonomy and well-being are already compromised by poverty, lack of access to good medical care, advanced age, or membership in a stigmatized social group."[8]

- An heir to the patient's estate or friends of the heir can encourage or pressure the patient to request lethal drugs and then be a witness to the request. Generally, assisted suicide laws allow one of the two witnesses to be an heir.

Terminal illness defined dangerously broad; predictions of life expectancy are notoriously inaccurate

- Assisted suicide laws typically appear to limit eligibility to terminally ill patients who are expected to die within six months but don't distinguish between persons who will die within six months *with treatment* and those who will die within six months *without treatment*. This means patients with treatable diseases like diabetes and disabilities requiring ventilator support are

eligible for lethal drugs since they would die within six months without treatment. Furthermore, diagnoses of terminal illness and predictions of life expectancy are notoriously inaccurate.[9]

- According to official data collected by Oregon's health department, lethal drugs have already been given to Oregon patients with less predictable conditions like chronic respiratory or cardiac disease and even "benign and uncertain" tumors.[10]

Untreated pain is not among the top reasons for taking lethal drugs

- According to official annual reports, in 2016, 90% of Oregon patients seeking lethal drugs said they were "less able to engage in activities making life enjoyable" and were "losing autonomy," and 49% cited being a "burden" on family, friends or caregivers. In Washington, 52% cited being a "burden". In both Washington and Oregon concern about pain was cited as the second to last reason for seeking lethal drugs (35%).

Definition of self-administration opens door to euthanasia

- Can others take an active role in ending the patient's life? Oregon law speaks of the patient as "ingesting" medication to end his or her life.[11] Washington law says patients will "self-administer" the drugs, but defines "self-administer" to mean "ingesting."[12] But "ingesting" ordinarily means absorbing or swallowing; so this does not seem to bar others from administering the drugs. If such action is in accord with the Act, it may *not* be treated as a homicide.[13]

No psychiatric evaluation or treatment is required; patients with depression qualify for assisted suicide

- Despite medical literature showing that nearly 95 percent of those who commit suicide had a diagnosable psychiatric illness (usually treatable depression) in the months preceding suicide,[14] the prescribing doctor and the doctor he or she selects to give a second opinion are both free to decide whether to refer suicidal patients for any psychological evaluation. Per Oregon's official annual report, from 2013-2016 less than 4% of patients who died under its assisted suicide law had been referred for evaluations to check for "impaired judgment."

- If an evaluation is provided to suicidal patients, its goal is not to treat the underlying psychopathology, but to determine that the patient is not suffering from "a psychiatric or psychological disorder or depression *causing impaired judgment*."[15] The doctors or counselor can decide that, since depression is "a completely normal response" to terminal illness, the depressed patient's judgment is not impaired.[16]

- Assisted suicide laws place lethal drugs in patients' hands to be administered at a time of their choosing, making it impossible to determine whether their judgment is impaired when the actual decision for suicide is made and the drugs are taken.

Assisted suicide threatens improved palliative care

- There is compelling evidence that legalizing assisted suicide undermines efforts to maintain and improve good care for patients nearing the end of life, including patients who never wanted assisted suicide.

- Vermont legalized physician-assisted suicide in 2013. In 2015, the state's Visiting Nurse Association announced it is conducting a study to discover why the state has "the third lowest hospice utilization rate in the nation."[17]

- Oregon was a leader in promoting hospice care before it legalized assisted suicide. After legalization its percentage improvement in utilization of hospice fell below the national average. The state opened only five new hospices from 2000 to 2014, at a time when 1,832 opened in other states. Washington, which legalized assisted suicide in 2008, also has a hospice utilization rate below the national average.[18]

Publicity about suicide and assisted suicide, especially when presented favorably, leads to more suicides.

- In 2015, Oregon's health department said "The rate of suicide among Oregonians has been increasing since 2000" (3 years after it legalized assisted suicide) and as of 2012 was "42% higher than the national average"; suicide had become "the second leading cause of death among Oregonians aged 15 to 34 years." These figures are in addition to deaths under the Oregon assisted suicide law, which legally are not counted as suicides.[19]

- Proponents claim assisted suicide is a "peaceful" alternative that replaces "violent" suicides. A recent study has found that legalizing assisted suicide does not reduce or substitute for other suicides, but increases total suicides.[20]

- The World Health Organization warns that certain kinds of media coverage of suicide "which sensationalizes or normalizes suicide, or presents it as a solution to problems" can lead to "imitative suicidal behaviours," especially among young or depressed people.[21]

Assisted suicide operates through **deception** and **secrecy**

- In Oregon, doctors list patients' underlying illness as the cause of death on death certificates; in Washington, this falsified report is explicitly *required* by law.[22] The death certificate may be signed by the doctor who prescribed the lethal drugs, completing this closed system for controlling and hiding information.[23]

- In Oregon and Washington, all reporting about doctor-assisted deaths is self-reporting by the doctors prescribing lethal drugs.[24] By its own figures, "Compassion and Choices" (formerly The Hemlock Society), which adamantly supports assisted suicide, played an active role in 97% of Oregon's assisted deaths in 2009.[25]

- Doctors cannot report reliably on the situation when patients ingest the lethal overdose and die, as nothing in the law requires them to be present – and no one else who may be present is required to report. According to official annual reports, in Oregon, the prescribing physician was present at the time of death in only 10% of known cases in 2016. In Washington in 2015, the prescribing physician was present in only 5% of cases (9 out of 166). Who else may have been present, what role they played in causing the patient's death, and what motives they were acting on, are not known and never reported.

Assisted suicide fosters **discrimination**

- Assisted suicide fosters discrimination by creating two classes of people: those whose suicides our country spends hundreds of millions of dollars each year to prevent and those whose suicides we assist and treat as a positive good. We remove weapons and drugs that can cause harm to one group, while handing deadly drugs to the other, setting up yet another kind of life-threatening discrimination.

- Removing an entire class of citizens from the protection of laws against deadly harm based on the condition of their health, as assisted suicide laws do, violates the basic notion of equal justice for all. The only court in the nation to address the question has concluded that withholding from terminally ill patients "the same protections from suicide the majority enjoys" violates equal protection.[26]

For additional information on why legalizing assisted suicide is a bad and dangerous idea see:
www.usccb.org/toliveeachday and www.patientsrightsaction.org

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[1] Susan Harding, *Health Plan Covers Assisted Suicide But Not New Cancer Treatment*, KVAL News (published July 31, 2008, updated Oct. 30, 2013) (noting that the Oregon Health Plan will pay for coverage for chemotherapy that cures cancer, but not for chemotherapy drugs that can extend life); Jennifer Popik, *Terminally Ill Oregon Patients Denied Treatment but Reminded They Can Choose Physician-Assisted Suicide* (July 2008), available at http://www.nrlc.org/archive/news/2008/NRL08/Oregon.html.

[2] Bradford Richardson, *Assisted-Suicide Law Prompts Insurance Company to Deny Coverage to Terminally Ill California Woman*, Wash. Times (Oct. 20, 2016), http://www.washingtontimes.com/news/2016/oct/20/assisted-suicide-law-prompts-insurance-company-den/.

[3] "Insurance companies denied treatment to patients, offered to pay for assisted suicide, doctor claims," *The Washington Times*, May 31, 2017, at http://www.washingtontimes.com/news/2017/may/31/insurance-companies-denied-treatment-to-patients-o/.

[4] Derek Humphry and Mary Clement, "The Unspoken Argument," in FREEDOM TO DIE, 313 (1998).

[5] http://www.nejm.org/doi/full/10.1056/NEJMra1404688

[6] See H. Hendin and K. Foley, "Physician-Assisted Suicide in Oregon: A Medical Perspective," 106 *Michigan Law Review* 1613-45 (2008) at 1624-5; available at https://docs.google.com/file/d/0BwDPETL1NPnAMmFjZTNjNzctOGU4NS00MTUwLTgxZjAtM2I4NDhlMjA2OTFj/edit?hl=en&pli=1.

[7] *Washington v.Glucksberg*, 521 U.S. 702, 732 (1997).

[8] *Id*. at 732.

[9] Joanne Lynn, *et.al., Defining the "Terminally Ill": Insights from SUPPORT,* 35 Duq. L. Rev. 311 (Fall 1996); Eric Chevlen, *The Limits of Prognostication*, 35 Duq. L. Rev. 337 (Fall 1996)

[10] Oregon Public Health Division, "Oregon Death with Dignity Act: Data Summary 2016" at 9 and 11 n. 2.; available at http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Documents/year19.pdf.

[11] Or. Rev. Stat. § 127.875

[12] Wash. Rev. Code §§ 70.245.020 and 70.245.010(12)

[13] Or. Rev. Stat. § 127.880; Wash. Rev. Code § 70.245.180(1). See M. Dore, "'Death with Dignity': A Recipe for Elder Abuse and Homicide (Albeit Not By Name)," 11.2 *Marquette Elder's Advisor* 387-401 (Spring 2010) at 391-3; http://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1027&context=elders

[14] H. Hendin, M.D., *Seduced by Death: Doctors, Patients, and Assisted Suicide (New York: W.W. Norton, 1998):34-35.*

[15] Id

[16] Hendin & Foley, *Physician-Assisted Suicide in Oregon*, *supra* at 1623-4.

[17] "Vermont VNA Seeking to Identify Causes of State's Low Hospice Utilization Rates," *Hospice and Palliative Care News*, April 29, 2015, at http://healthrespubs.com/hospice-and-palliative-care-news/2015/04/29/vermont-vna-seeking-to-identify-low-hospice-utilization-rates/.

[18] J. Ballentine et al., "Physician-Assisted Death Does Not Improve End-of-Life Care," *Journal of Palliative Medicine* 19 (2016): 1-2.

[19] X. Shen and L. Millet, *Suicides in Oregon: Trends and Associated Factors. 2003-2012* (Oregon Health Authority 2015) at 3, http://public.health.oregon.gov/DiseasesConditions/InjuryFatalityData/Documents/NVDRS/Suicide%20in%20Oregon%202015%20report.pdf.

[20] D. Jones and D. Paton, "How Does Legalization of Physician-Assisted Suicide Affect Rates of Suicide?", 108 *Southern Medical Journal* (2015): 599-604.

[21] World Health Organization, *Preventing Suicide: A Resource for Media Professionals* (WHO: Geneva 2008) at 6, 7, 8; www.who.int/mental_health/prevention/suicide/resource_media.pdf

[22] M. Dore, "'Death with Dignity': A Recipe for Elder Abuse and Homicide (Albeit Not By Name)," 11.2 *Marquette Elder's Advisor* 387-401 (Spring 2010) at 395; http://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1027&context=elders.

[23] Or. Rev. Stat. § 127.815(2); Wash. Rev. Code § 70.245.040(2).

[24] Or. Rev. Stat. §§ 127.855(7) and 127.865; Wash. Rev. Code §§ 70.245.120 and 70.245.150.

[25] K. Stevens, "The Proportion of Oregon Assisted Suicides by Compassion & Choices Organization," March 4, 2010, at www.patientsrightscouncil.org/site/oregon-assisted-suicide-deaths/.

[26] *Lee v. Oregon*, 891 F. Supp. 1429 (D. Or. 1995), *vacated on other grounds*, 107 F.3d 1382 (9th Cir. 1997), *cert. denied*, 522 U.S. 927 (1997).