

Testimony of Robert K. Jenner
Support for SB701
The End-of-Life Option Act (The Richard E. Israel and Roger “Pip” Moyer Act)
February 28, 2020

My name is Robert Jenner. I am a trial attorney and Past President of the Maryland Trial Lawyers Association, now known as the Maryland Association for Justice. When I was President of MAJ, I never came to Annapolis. Lobbying and legislation were not my thing. I am here today, testifying for the first time ever. I am not testifying as an advocate or a lawyer. Today I am speaking on behalf of myself and my family, and on the deepest of personal levels, I strongly support this bill. I have two principal comments.

1. As the son of a father who died a horrible and painful last month of his life, I support this bill.

My parents moved to Bethesda in 1971. I was in the 6th grade. My father's name was David Jacobowitz. For 45 years, my dad worked at NIH and then the Uniformed Services University of the Health Science as a research scientist. At the age of 85, an inter-nationally renowned neuro-pharmacologist, after publishing more than 400 scholarly works, my dad “thought it was time” to retire. Shortly thereafter, he and my mother moved to Riderwood Community. A child of the depression, and a Korean War veteran, my dad was a beloved member of our synagogue and his master-woodturning community. He was a humble, quiet and gentle presence who was committed to his family, his faith, and his country.

About a year and a half ago, in August 2018, my dad went into Holy Cross Hospital, and was told he had inoperable stage IV abdominal cancer. I asked the doctor how much longer he had to live. The doctor hedged, as doctors do, but said, “Thanksgiving is a long way away.” He and my mom, together, made the incredibly brave decision to forego radiation and chemotherapy to save himself the pain of the evitable, and to spare his family the torture of watching somebody they love die a slow and horrific death.

My dad asked that I make sure he did not suffer, and I said I would. But the reality was, there was nothing I could do. Because we live in Maryland. Not just six miles over the border in Washington D.C., where he could have died in peace. We live in Maryland. His home.

My dad could not tolerate morphine, as many patients cannot. He pleaded for relief. His pleas, “Why isn’t the cancer working!” ring in my ears every day. He died after a tortuous and unnecessary month of pain. My mom, age 83, my brother and my family watched all this. It was cruel, and it was unnecessary. It was not what my dad wanted nor would have chosen to be the last few weeks of his life.

2. As an attorney who often questions liability protections for physicians, I support the bill.

I know that previously some have claimed Maryland does not exempt any parties from civil liability, and that such protections should not be in this bill. I disagree for two reasons. First, Maryland frequently provides liability protections for classes of people. There are laws protecting acts of good Samaritans; fire and rescue workers; physicians admitting or discharging patients from mental health facilities; people who report

child abuse; and others. As there should be. Special situations warrant special consideration. And there is no reason not to protect a doctor doing what the law allows.

Second, if the bill does not provide such protections, physicians simply may not participate. Why would they? Many physicians would not want to risk lawsuits or prosecution for the few patients he or she might consider helping with aid in dying. Protections of physicians in this law are required.

A few months after his death, the Uniformed Services University placed an engraved brick in the side of the building honoring my dad. (See attached). While that was a beautiful and meaningful tribute, the State of Maryland can and should do one better by passing the End-of-Life Option Act. My dad needed this law, and his beloved State failed him by failing to pass this law years ago. Marylanders need this law. And civil and criminal protections must be part of it.

I strongly encourage the committee to vote YES for the Maryland End-of-Life Option Act, a compassionate option that would allow terminally ill, mentally capable, adults with six months or fewer to live to choose a peaceful death.

David M. Jacobowitz, Ph.D.

