

SECOND THOUGHTS MASSACHUSETTS

Disability Rights Advocates against Assisted Suicide

March 6, 2023

SB 845

"End of Life Options Act"

Senate Judicial Proceedings

Position: Oppose

I am the New England Regional Director for Not Dead Yet, the national disability rights group that has long opposed euthanasia and assisted suicide, and the director of Massachusetts Second Thoughts: Disability Rights Advocates against Assisted Suicide. Our opposition is based in universal principles of social justice that apply to everyone, whether disabled or not.

We ask that you reject SB 845 because it violates core tenets of public health policy. The bill would, predictably and inevitably, endanger the lives of innocent people. That's because mistakes and abuse are impossible to prevent, and the harm – wrongful death – impossible to reverse.

SB 845's definition of "terminal illness" – two doctors making the "reasonable medical judgment" that someone is "likely" to die within six months – is arbitrary and without clinical basis. It was borrowed wholesale from the Medicare hospice benefit established by Congress, which limited the benefit time period out of cost concerns.

The hospice definition of "terminal" established in-home services promoting living well in exchange for eschewing curative treatment. The "mistakes" that result in thousands of people "graduating" from hospice every year may result in continuity of care issues, but these people have their lives.

Assisted suicide advocates took a definition of terminal illness that was essentially a bureaucratic criterion and made it the linchpin of a program of a state-approved death. Mistakes that are innocent in hospice become tragic under assisted suicide. Indeed, every Oregon report shows that people dispensed lethal drugs were not actually terminal. In 2020, Oregon revealed that 4% of patients who have been prescribed lethal medication remain alive after 6 months. NPR reported five years ago that nearly 20% of people who enter hospice will be alive after six months. The difference between the 4% who are surviving now and the percentage of people who would be alive after six months – nearly 20% – the number of people who weren't actually dying.

TV star Valerie Harper was told incorrectly she had 3 months to live because of brain cancer in early 2013, more than a year before Brittany Maynard's diagnosis. Yet Harper was nowhere near her "end of life." If, based on the false information given to her, Valerie had exercised her "right" to aid in dying, she could have died years earlier. Valerie Harper lived a total of six years after her diagnosis.

This committee should be skeptical when bill proponents talk of ideal, loving families, not when our news is full of the deeds of abusive, even murderous families and "friends."

Under SB 845, abusers and criminals would be offered a no-questions-asked opportunity to engineer someone's death. Especially vulnerable will be the 10% of Maryland elders estimated to be abused every year, almost always by adult children and caregivers.

The Associated Press reported in 2013 that now-imprisoned Oregon realtor

Tami Sawyer also faces charges of criminal mistreatment and theft as a result of a state charge that she stole more than \$50,000 after a man [Thomas Middleton] who suffered from Lou Gehrig's disease moved into her home, named her his estate trustee, deeded his home to a trust, and then died by physician-assisted suicide.

Because no assisted suicide law requires an impartial witness to the death, we have no idea how Thomas Middleton really died. We do know that days later, Sawyer listed Middleton's property and then stole some of the proceeds. Her crimes came to light, not through any program safeguards, but by a federal investigation into suspicious real estate transactions. Only then, did the state draw up charges –later dropped.

Suspicious circumstances like Middleton's are not included in the Oregon reports. Even when there is evidence of abuse, Oregon has taken no action.

Wendy Melcher was killed by massive doses of barbiturate suppositories administered by two nurses, one of whom was having an affair with Wendy's partner. The nurses claimed that Melcher had requested assisted suicide, but there was no doctor's prescription, Wendy did not self-administer, and the nurses never reported her death to the Oregon Department of Health as an assisted suicide.

Yet instead of referring the nurses to authorities for criminal charges, the state nursing board secretly suspended one nurse's license for 30 days and placed the other on two years "probation." The killing only came to light years later when a departing member of the nursing board told the governor. It took a reporter's phone call to inform Melcher's devastated family that she had actually been killed.

It seems that the very existence of the assisted suicide law turned evidence of a serious crime into an excusable mistake. The Portland Tribune editorialized, "If nurses — or anyone else — are willing to go outside the law, then all the protections built into the Death With Dignity Act are for naught."

Coercion can come from every direction. Oregonian Kathryn Judson wrote of bringing her seriously ill husband to the doctor. "I collapsed in a half-exhausted heap in a chair once I got him into the doctor's office, relieved that we were going to get badly needed help (or so I thought)," she wrote. "To my surprise and horror, during the exam I overheard the doctor giving my husband a sales pitch for assisted suicide. 'Think of what it will spare your wife, we need to think of her' he said, as a clincher."

A belief common among people thinking of suicide, whether "conventional" or assisted, is that their deaths will benefit others. SB 845 reclassifies what should be evidence of impaired judgment as a rational response to disabling, serious illness.

But impairing judgment is what depression *does*.

As Ruthie Poole of Massachusetts MPOWER testified:

Those of us in MPOWER are very familiar with the insidious nature of depression. As a therapist once told me, depression does not cause black and white thinking; it causes black and blacker thinking. Absolute hopelessness and seeing no way out are common feelings for those of us who have experienced severe depression. Personally, as someone who has been suicidal in the past, I can relate to the desire for "a painless and easy way out." However, depression is treatable and reversible. Suicide is not.

The committee will certainly hear a lot of testimony describing deaths in which pain was not properly treated, but Oregon physicians report giving lethal drugs mainly due to psychosocial distress about disability. First is distress about dependence on other people (“losing autonomy” 93%), second is distress over lost abilities (“less able to engage in activities making life enjoyable” 92%), followed by feelings of shame and perceived/actual loss of social status (“loss of dignity” 68 %), distress about needing help with incontinence (“losing control of bodily functions” 47%), and despair at feeling unwanted (“burden on family and friends/caregivers” 54%)

These reasons suggest a meaning of dignity that depends not on everyone’s inherent worth, but on an ability-based meritocracy. This sort of dignity is fragile and easily lost through disability. The people whose suicides are informed by these views, proponents admit, tend to be wealthier, better educated, and people with a strong preference for control. Their desire to hold onto this privilege is understandable, but it cannot justify a pro-suicide public policy that endangers everyone else.

The lives of non-“terminal” disabled people share many traits with people requesting assisted suicide, but we reject as bizarre and dangerous the notion that personal dignity is somehow lost through reliance on others, or because we are not continent every hour of every day. That’s why for 50 years the disability rights movement has insisted on funded programs to provide necessary personal care attendant (PCA) services for all disabled people, including people disabled by their serious illness.

SB 845 would set up a two-tier system, under which some people get suicide prevention services while others get suicide assistance. The difference between the two groups would be based on value judgments about so-called “quality of life.” Many of us already get told, straight to our face and through medical hostility, that we might be better off dead. Legalized assisted suicide makes that prejudice official policy.

Every leading national disability rights group that has taken a position on assisted suicide has come out against it.

Let’s make sure that people have the choice and supports to live pain- and burden-free at home. As you consider SB 845, please think about Maryland residents, elders and disabled people who may be vulnerable and without the sort of support and control assisted suicide proponents take for granted, innocent people who will lose their lives because of this bad social policy.

Invidious quality-of-life judgments have no place in a democracy. Please reject this bill and the discrimination it promotes.

Thank you.

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