

SECOND THOUGHTS MASSACHUSETTS

Disability Rights Advocates against Assisted Suicide

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Testimony Opposing SB 239
Committee on Health and Human Services
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Chairs, Members of the Committee:

I am Communications Director for Not Dead Yet, the national disability rights group that has long opposed assisted suicide. I am also the Director of Second Thoughts Massachusetts: Disability Rights Advocates against Assisted Suicide.

Like all assisted suicide bills, SB 239 puts people in danger of premature death. That's because deadly mistakes and abuse are impossible to prevent, and the harm – wrongful death – impossible to reverse.

The bill is also divisive, putting the wishes of the wealthier, whiter classes of people above the objection of other communities. Black and Brown communities overwhelmingly oppose legalized assisted suicide, as do working-class white people. People who already receive later and less care will more likely be written off as having a low “quality of life” when they have the same symptoms that prompt more privileged people to seek assisted suicide.

The response to COVID-19 has laid bare the racism inherent in our broken medical system, such as the case of Michael Hickson, a black Texan quadriplegic with COVID-19, who was refused treatment because of his “quality-of-life.”

INSURERS: The bill, despite its promise of individual empowerment, gives real choice to insurers, whose profit-maximizing denials of prescribed treatments can make you terminal. Because assisted suicide is always the cheapest “treatment” available, it encourages insurers to reject traditionally covered treatments. That's already happening in states where assisted suicide is legal.

Reno Dr. Brian Callister reported a few years ago that two of his patients were denied routine treatments with 70 percent cure rates by their respective California and Oregon insurance companies. They would only pay for hospice and assisted suicide. Shortly after assisted suicide became legal in California, Stephanie Packer, a young mother with scleroderma, was denied her prescribed treatment but learned that her assisted suicide copay would be \$1.20.

MISTAKES. In 2014, CBS News reported that physician misdiagnosis affects 12 million Americans yearly, putting half at risk of severe harm. Studies show that 12%-20% of people who enter hospice outlive their six-month prognosis.

Beginning with its 2020 report, Oregon started acknowledging the numbers of people who outlive their six-month terminal prognosis. In 25 years, 104 people or 4% of the total people with prescriptions have outlived their prognosis. That means that another group of people, probably more than 100, cut short their lives out of misplaced trust in their very fallible doctors. That 4% figure happens to match the percentage of people sentenced to death estimated to be innocent. That's one of the main reasons that people oppose capital punishment. If those people's lives are valuable enough to cause people to reject capital punishment, an even greater percentage of people who lose good years of their lives to assisted suicide should be reason enough to stop the practice.

TV star Valerie Harper was told incorrectly she had months to live because of brain cancer in early 2013. 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 lost 6 good years of her life, which included starring in a play. She lived until the fall of 2019.

ABUSE: This committee should be skeptical when assisted suicide proponents talk of ideal, loving families, not when our news is full of the deeds of abusive, even murderous families and “friends.”

If SB 239 passes, abusers and criminals will be offered a no-questions-asked opportunity to engineer someone’s death. Especially vulnerable will be the 10% of Nevada elders estimated to be abused every year, almost always by adult children and caregivers.

The Associated Press reported in 2013 that 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.

We have no idea how Thomas Middleton really died, but 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. The state did not bother to pursue its charges.

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

For example, Wendy Melcher died after being given massive doses of barbiturate suppositories by two nurses, one of whom was allegedly having an affair with Wendy’s partner. The nurses claimed that Wendy had requested assisted suicide, but she wasn’t even enrolled in the program! Nor did Wendy self-administer.

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.” It took a reporter’s phone call years later to inform Wendy’s devastated family that she had 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.”

Despite these examples and more, professional proponents continue to falsely claim that there hasn’t been a single instance of abuse in all the states practicing assisted suicide.

DISABILITY. As you will hear from both proponents and opponents of this bill, people do not make decisions in isolation. That’s especially true when people become disabled due to illness and need physical assistance from other people. When people do not have access to paid in-home caregivers, they are susceptible to feeling like a burden. Indeed, prescribing Oregon physicians reported last year that 46% of program deaths stem in part from feelings of being a “burden on family and friends/caregivers.”

Proponents are always saying that the initiative must come from the patient, but let’s be real: if prescribing a deadly overdose is a beneficial “medical treatment,” doctors and nurses and family are going to be suggesting it.

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.

The writers of the bill ignore the reality of depression, which does indeed impair judgment. As Massachusetts mental health advocate Ruthie Poole has 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.

A lot of hearing testimony will describe deaths in which pain was not properly treated, but proponents have begun admitting that the emphasis on pain and suffering is a marketing ploy, because as leading assisted suicide practitioner Lonny Shavelson has said, “It’s almost never about pain.” Like Shavelson, former radio show host Diane Rehm emphasizes that assisted suicide is really about “dignity.”

Shavelson and Rehm both point to the Oregon reports, whose first five “end-of-life concerns” deal with “existential distress” (New England Journal of Medicine) over the disabling aspects of their serious illness, from depending on others for care to grief over lost abilities, loss of social status, incontinence, and feeling like a burden.

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, whiter, more educated, and people with a strong preference for control. Their desire to hold onto this privilege must not 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. 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 239 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.

That’s why 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 239, please think about Nevada residents, elders and disabled people – including people disabled by their serious illness – 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 state policy. Please reject this bill and the discrimination it promotes. Thank you.

John B. Kelly

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