

## Vote “No” on HB 2217 A

### **The Bill Will Create a Perfect Crime (Legal Murder) The Bill’s Purported Prohibition Against Euthanasia is Not Enforceable The Bill Should Be Amended to Obtain Transparency**

Senate Committee on Judiciary  
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#### **1. The Bill**

HB 2217 A amends the Death with Dignity Act by requiring that the lethal dose be “self-administered” as defined by the bill. On close examination, the proposed definition will create a perfect crime (legal murder).

If enacted, the bill will apply to people with years or decades to live. Individuals with money, meaning the middle class and above, will be especially at risk.

The Act currently has a near complete lack of transparency in which death certificates are falsified and even law enforcement is denied access to information about individual cases. The bill as written must be rejected. The bill should be amended to obtain transparency and figure out what’s really going on. It’s well known that bad things happen in the dark.

#### **2. “Eligible” Persons May Have Years or Decades to Live**

The Act applies to people with a terminal illness predicted to result in death “within six months.” In practice, this criteria is interpreted to include chronic conditions such as diabetes. This is because the six months to live is determined without treatment.<sup>1</sup> With treatment (insulin), such persons can have years or decades to live.

#### **3. Assisting Persons Can Have an Agenda**

Persons assisting a suicide or performing a euthanasia can have an agenda to benefit themselves. Consider Tammy Sawyer, trustee for Thomas Middleton here in Oregon. Two days after his death by legal assisted suicide, she sold his home and deposited the proceeds into bank accounts

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<sup>1</sup> Declaration of William Toffler, MD, submitted with Dore memorandum dated May 4, 2019.

for her own benefit.<sup>2</sup> Consider also Graham Morant, convicted of counseling his wife to kill herself in Australia, to get the life insurance. The Court found:

[Y]ou counseled and aided your wife to kill herself because you wanted ... the 1.4 million.<sup>3</sup>

Medical professionals too can have an agenda. Michael Swango, MD, now incarcerated, got a thrill from killing his patients.<sup>4</sup> Consider also Harold Shipman, a doctor in the UK, who not only killed his patients, but stole from them and in one case made himself a beneficiary of the patient's will.<sup>5</sup>

#### **4. The Definition of "Self-Administer"**

The bill states:

"Self-administer" means a qualified patient's affirmative, conscious and voluntary act to take into his or her body medication to end his or her life in a humane and dignified manner.<sup>6</sup>

With this definition, the patient is not required to know or understand that the medication being taken is a lethal dose.

#### **5. The Death Certificate Will List a Terminal Disease as the Cause of Death**

The Act, ORS 127.880 § 3.14, states:

Actions taken in accordance with ORS 127.800 to 127.897 [the Death with Dignity Act] shall not, for any purpose, constitute suicide, assisted suicide, mercy killing or homicide, under the law. (Emphasis added).

In practice, this provision is construed to require the death certificate to list a terminal disease as the cause of death. Craig New, Research Analyst for the Oregon Health Authority, explains:

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<sup>2</sup> <https://choiceisanillusion.files.wordpress.com/2016/10/sawyer-arraigned-a-63.pdf>

<sup>3</sup> *R v Morant*, 11/02/18, p. 11, ¶ 78, at <https://archive.sclqld.org.au/qjudgment/2018/QSC18-251.pdf>,

<sup>4</sup> Charlie Leduff, "Prosecutors Say Doctor Killed to Feel a Thrill," *The New York Times*, 09/07/2000, <https://www.nytimes.com/2000/09/07/nyregion/prosecutors-say-doctor-killed-to-feel-a-thrill.html>

<sup>5</sup> David Batty, "Q & A: Harold Shipman," *The Guardian*, 08/25/05, at <https://www.theguardian.com/society/2005/aug/25/health.shipman>.

<sup>6</sup> HB 2217 A, Section 3, amending ORS 127.800 § 101 (12).  
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We rely on ORS 127.880 s.3.14 which states that actions taken in accordance with the DWDA [Death with Dignity Act] ... do not constitute suicide or assisted suicide.<sup>7</sup>

The significance of requiring a terminal disease to be listed as the cause of death on the death certificate is that it creates a legal inability to prosecute. Even if the qualified patient thought that he or she was taking a cold medication instead of the lethal dose, the official legal cause of death will be a terminal disease (not murder) as a matter of law. The bill will create a perfect crime.

## 6. Dr. Shipman and the Call for Death Certificate Reform

Per a 2005 article in the UK's *Guardian* newspaper, there was a public inquiry regarding Dr. Shipman's conduct, which determined that he had "killed at least 250 of his patients over 23 years."<sup>8</sup> The inquiry also found "that by issuing death certificates stating natural causes, the serial killer [Shipman] was able to evade investigation by coroners."<sup>9</sup>

Per a subsequent article in 2015, proposed reforms included having a medical examiner review death certificates, so as to improve patient safety.<sup>10</sup> Instead, the instant bill will require legal coverup as a matter of law. If enacted, the bill will render people with money, meaning the middle class and above, sitting ducks to their heirs and other perpetrators - even more so than they already are under the existing Act.

## 7. "Even if the Patient Struggled, Who Would Know?"

The bill has no required oversight over administration of the lethal dose, not even a witness is required to be present at the death. The drugs used are water or alcohol soluble, such that they can be injected into a sleeping or restrained person without consent.<sup>11</sup> Even if the patient struggled, who would know?

## 8. EUTHANASIA WILL BE ALLOWED OR WILL NONETHELESS OCCUR

The bill states:

Medication [the lethal dose] prescribed under ORS 127.800 to

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<sup>7</sup> Declaration of Charles Bentz, MD, attached at A-49 (quoting Mr. New).

<sup>8</sup> David Batty, *supra*.

<sup>9</sup> *Id.*, "What are its findings?"

<sup>10</sup> Press Association, "Death certificate reform delays 'incomprehensible,'" *The Guardian*, January 21, 2015

<sup>11</sup> The drugs used include Secobarbital, and Pentobarbital (Nembutal), which are water and alcohol soluble. See <http://www.drugs.com/pr/seconal-sodium.html> and <http://www.drugs.com/pro/nembutal.html>.

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127.897 [the Act] must be self-administered by the patient and may not be administered on behalf of the patient by any other person. (Emphasis added).<sup>12</sup>

With this language, the bill does not allow and indeed prohibits euthanasia as traditionally defined. This language, however, also lacks unenforceability. Euthanasia will nonetheless occur due to the Act's complete lack of oversight over administration. As noted previously, "Who would know?"

Consider also the information below from an article in the New England Journal of Medicine, regarding a study of assisted suicide versus euthanasia: Identified problems included complications, such as myoclonus (spasmodic jerky contractions) and vomiting. Problems were experienced more frequently with assisted suicide, which by necessity led to euthanasia:

The physician decided to administer a lethal medication in 21 of the cases of assisted suicide (18 percent), which thus became cases of euthanasia. The reasons for this decision included problems with completion (in 12 cases) and the inability of the patient to take all the medications (in 5). (Emphasis added).<sup>13</sup>

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<sup>12</sup> HB 2217 A, Section 2, lines 7-9, attached hereto at A-17.

<sup>13</sup> Johanna H. Groenewoud, MD, "Clinical Problems with the Performance of Euthanasia and Physician-Assisted Suicide in the Netherlands," The New England Journal of Medicine, 02/24/00, excerpts attached hereto at A-54 & A-55. See also <https://www.nejm.org/doi/full/10.1056/NEJM200002243420805>  
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