

**Written Testimony of Sam DeWitt, Oregon Access Campaign Manager,
Compassion & Choices
Regarding HB 2217, Relating to the Oregon Death with Dignity Act
Senate Judiciary Committee
Thursday May 9, 2019**

Good morning Chair and Members of the Committee.

My name is Sam DeWitt and I am the Oregon Access Campaign Manager for Compassion & Choices, the nation's oldest and largest nonprofit organization working to improve care and expand options at the end of life.^{1,2,3,4,5} Compassion & Choices advocates for legislation to improve the quality of end-of-life care for terminally ill adult patients and affirms their right to determine their own medical treatment options as they near the end of life.

The Oregon Death with Dignity Act has demonstrated for over 20 years that medical aid-in-dying laws work as intended by affirming patient autonomy while ensuring a high standard of care. At the same time, after two decades of rigorously examined experience, we now have a robust body of evidence and data that demonstrate that the well-intentioned regulatory requirements within the Act actually disincentivize provider participation and make it very difficult for terminally ill individuals to access this compassionate end-of-life care option.

Based on this experience, Compassion & Choices supports increasing access to medical aid in dying by removing unnecessary regulatory requirements. While we agree with the bill sponsor that eligible terminally ill residents should have access to medical aid in dying, we can not support this bill in its current form.

Following the last hearing, there was an email and a newspaper article which made it clear that the goal of the bill was not simply to clarify the different administration routes for people who could not swallow. Rather, the goal of the bill is to allow for IV administration.

¹ Compassion & Choices brought landmark federal cases establishing that dying patients have the right to aggressive pain management, including palliative sedation. *Vacco v. Quill*, 521 U.S. 793 (1997); *Washington v. Glucksberg*, 521 U.S. 702 (1997).

² Compassion & Choices drafted and sponsored introduction of legislation requiring comprehensive counseling regarding end-of-life care options. See, California Right to Know End-of-Life Options Act, CAL. HEALTH & SAFETY CODE §442.5; New York Palliative Care Information Act, N.Y. PUB. HEALTH LAW § 2997-c.

³ For example, Compassion & Choices is pursuing accountability for failure to honor a patient's wishes as documented in a POLST, *DeArmond v Kaiser*, No. 30-2011-00520263 (Superior Court, Orange County, CA). In another case, Compassion & Choices represented a family in bringing into the public eye a situation where patient wishes to forego food and fluid were obstructed. See Span, "Deciding to Die, Then Shown the Door," *The New York Times*, Aug. 24, 2011, available at <http://newoldage.blogs.nytimes.com/2011/08/24/deciding-to-die-then-shown-the-door/?ref=health>; Uyttebrouck, "Couple Transported Out of Facility After Refusing Food," *Albuquerque Journal*, Jan. 08, 2011, available at <http://www.abqjournal.com/news/metro/08232859metro01-08-11.htm>.

⁴ Compassion & Choices brought two federal cases to the United States Supreme Court urging recognition of a federal constitutional right to choose aid in dying. *Washington v. Glucksberg*, 521 U.S. 702 (1997); *Vacco v. Quill*, 521 U.S. 793(1997). Compassion & Choices was in leadership in the campaigns to enact the Death with Dignity Acts in Oregon and Washington. OR. REV. STAT. § 127.800 (2007); WASH. REV. CODE ANN. § 70.245 (West 2011).

⁵ See supra n. 1, Bergman, Tomlinson, Tolliver, Hargett; See supra n. 3, DeArmond.

Allowing patients to self administer an IV is very different than allowing them to self administer medication through a feeding tube or a macy catheter. I can't imagine that we want to risk botched deaths because we have allowed a law that would have patients administering medications through equipment they have no training to use. This is a risky proposition. The law, as written, does not protect patients from those risks.

The reality is that under the current law, there are a variety of ways that patients who can not swallow are allowed to administer medical aid in dying medication including feeding tubes and rectal catheters. If there are doctors who are unaware of the alternative means of administering medication, please refer them to us. We can educate them to ensure they understand available options under the law because we agree, patients who can't swallow should be able to access the law.

We also commit to leading the effort to work with lawmakers and stakeholders in Oregon next legislative session to craft legislation to refine the law based on the more than 20 years of data and experience available to us.

However, there is too much at stake to rush forward with changes to the law that have not been properly deliberated and introduce considerable risk to patient safety.

Given this, we strongly oppose advancing this bill and ask the lawmakers in Oregon to please give sufficient time to draft legislation that achieves the goal of supporting patients in realizing a compassionate death.

We have to get this right.

Thank you, Chair and members of the Committee for your timely leadership on this issue.

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