Testimony in Opposition to HB 2279
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Submitted to: Oregon Senate Committee on Judiciary
April 19, 2023, 1:00 pm

Dear Chair Prozanski and members of the Committee,

I am President of the Physicians for Compassionate Care Education Foundation (PCCEF), an organization without religious or political affiliation that promotes safeguarding vulnerable human lives, especially those at the end of life. There are about 800 physicians and health care professionals who are members in Oregon. I have expertise in pediatrics, anesthesiology, pediatric critical care, and medical ethics. I ask you to oppose HB 2279.

In 2021, Nicholas Gideonse et. al. were plaintiffs in a lawsuit alleging that the residency requirement in OR's Death with Dignity Act (the Act) violates the Privileges and Immunities and Commerce Clauses of the US Constitution. The Oregon executive branch decided not to defend or enforce the residency requirement without going through judicial or legislative process. Instead, the onus was put on the legislative branch to make the proposed changes in the law. This is an infraction on the balance of powers, and the executive branch failed to carry out its assigned function to defend Oregon law.

HB 2279 is a bill at the request of the executive branch to remove the residency requirement, thus allowing the executive branch to function as the legislative branch and avoid its responsibilities to defend Oregon's laws in court. There are two issues here, of which one is a judicial matter and the other a legislative matter. The judicial matter pertains to whether the lawsuit had merit, and this should have been decided by the courts, not the legislative or executive branches.

The legislative matter pertains to the consequences of removing the Oregon (OR) residency requirement from the Act for persons obtaining lethal prescriptions as provided in HB 2279. There are complications and unclear ramifications from this bill.

1. This bill sets up OR to be a physician-assisted suicide tourism state. Whether patients actually have to travel to Oregon to obtain lethal drugs is unclear. Either way it is unlikely that Oregon doctors will know these patients from out of state well, as the bill does not limit lethal drug prescription to patients near the OR border who have an established OR doctor. Physicians often miss the diagnosis of depression and cognitive deficits, and it is likely that such omissions would be greater for patients who are not well-known. Because OR's law allows waiving the waiting period for patients who are near death, patients who are not well known could get immediate lethal drugs. A bad day and a rash decision then becomes a patient's last day. As a physician, I know that it takes time and an established relationship to properly evaluate a patient for mental health problems, assess whether there is coercion, establish trust, and ensure that a patient's decision is not being compromised by reversible factors. Many patients change their minds about wanting lethal drugs after time and/or support and treatment from hospice staff and family.
    a. If patients need to travel to OR solely for the purpose of obtaining a lethal prescription, then it is less likely that the patient could be accompanied by close family and/or friends, depriving them of sharing this crucial life experience. Traveling to OR for this purpose creates pressure on patients to follow through with taking lethal medications to justify the time, effort, and money spent, when they might otherwise have changed their minds and decided not to take the drugs or to wait longer.
    b. If a patient does not need to travel to OR, and evaluations are done virtually only, other problems arise. Although OR's law requires that patients be "examined," a doctor has admitted in public hearing in OR on a different bill that rural patients in OR are often provided with lethal drugs after virtual evaluations only with no hands-on examination. Virtual evaluation of mental health status and confirmation of absence of coercion is substandard. A physician would also need to be licensed in the state where the patient resides. But if that state law prevents prescription of lethal drugs, this would technically not be allowed. However, it is unclear how this would be policed if all costs are paid out of pocket by the patient and lethal drugs can be given to the OR physician who could mail lethal drugs to the patient in

another state. Trying to contain controlled substances to prevent their nefarious use would be hampered by allowing interstate mailing of lethal drugs.

2. Regardless of where the patient receives the lethal drugs, they could either die in OR or return to their home state to die. Any life insurance policy the patient holds would likely be registered in his/her home state. If the patient dies in OR and the death certificate lists the underlying terminal illness rather than the actual cause of death due to lethal drugs, this would be considered insurance fraud in the patient's home state. If the person dies in their home state, then it is unclear what legal ramifications might occur. If it is known how the patient died or if there is an autopsy to discover the cause of death is a lethal overdose, then anyone in the presence of these patients when they died could be guilty of assisting a suicide. Perhaps the prescribing doctor could also be indicted on felony charges. Knowledge of the complications arising for dying in one's own state, this could create undue pressure for a patient to take lethal drugs immediately upon obtaining them in OR. Many patients currently do not take lethal drugs immediately, or never take them and die a natural death.

HB 2279 opens Pandora's box for substandard patient evaluation and care, increased pressure on patients to ingest lethal drugs quickly, insurance fraud, and unclear legal problems. Let the executive branch do its job and defend current law. Reject HB 2279.