

**MASSACHUSETTS INITIATIVE PETITION NO. 11-12
("Petition for an Act Relative to Death with Dignity")**

Initiative No. 11-12¹, titled "An Act Relative to Death with Dignity," is an assisted-suicide proposal patterned on Oregon's and Washington's laws permitting doctor-prescribed suicide.

This proposal comes at a time when:

- *More people in Massachusetts die annually from suicide than from motor vehicle accidents.²*
- *The number of suicides in the state is three times higher than the number of homicides.³*
- *Elder abuse has increased by 31 percent in the last three years.⁴*

ANALYSIS

- **Initiative 11-12 would give government bureaucrats and profit-driven health insurance programs the opportunity to cut costs by denying payment for more expensive treatments while approving payment for less costly assisted suicide deaths.**

This has already been documented in Oregon – the state on which the Massachusetts initiative is based. In Oregon, the Oregon Health Plan (OHP) has notified some patients that medications prescribed to extend their lives or improve their comfort level would not be covered, but that the OHP would pay for a lethal drug prescription.⁵

Referring to payment for assisted suicide, the Oregon Department of Human Services explains, "Individual insurers determine whether the procedure is covered under their policies, just as they do any other medical procedure."⁶

If Initiative 11-12 is approved, will health insurance programs and government health programs do the right thing – or the cheap thing?

- **Initiative 11-12 would allow health care providers and others to suggest and encourage vulnerable patients to request doctor-prescribed suicide, setting the stage for elder abuse and pressure on vulnerable patients.**

Initiative 11-12 does not prohibit anyone from suggesting or encouraging a patient to request doctor-prescribed suicide.

Since victims of domestic abuse, including elder abuse, are extremely vulnerable to persuasion from their abusers, it takes little imagination to understand how Initiative 11-12 could put these abused patients at-risk of being persuaded to request lethal doses of drugs.

- **Under Initiative 11-12, someone who would benefit financially from the patient's death could serve as a witness and claim that the patient is mentally fit and eligible to request assisted suicide.**

Initiative 11-12 requires that there be two witnesses to the patient's written request for doctor-prescribed suicide. One of those witnesses shall not be a relative or entitled to any portion of the person's estate upon death. [Section 21]

However, this provides little protection since it permits one witness to be a relative or someone who *is* entitled to the patient's estate. The second witness could be the best friend of the first witness and no one would know.

Victims of elder abuse and domestic abuse are unlikely to share their fears with outsiders or to reveal that they are being pressured by family members to "choose" assisted suicide.

- **Initiative 11-12 has no protections for the patient once the assisted-suicide prescription is filled.**

Initiative 11-12 only addresses activities taking place at the time the prescription for death is written by the doctor. There are no provisions to insure that the patient is competent at the time the overdose is taken or that the patient knowingly and/or willingly takes the lethal drugs.

Due to this lack of protection at the time of their deaths, Initiative 11-12 would put patients at enormous risk. For example, someone who would benefit from the patient's death could trick or even force the patient into taking the fatal drugs, and no one would know that the patient's death was not voluntary.

- **Initiative 11-12 gives the illusion of "choice." Yet, it will actually constrict patient choice.**

Under Initiative 11-12, before writing a prescription for death, a doctor must fully "inform" the patient of "all feasible alternatives including, but not limited to, comfort care, hospice care, and pain control." [Section 4] However, being "informed" of all options does not mean that patients will have access to all options. It only means they must be informed of those.

If doctor-prescribed suicide becomes just another treatment option, and a cheap option at that, the standard of care and provision of health care changes. There will be less and less focus on extending life and eliminating pain, and more and more focus on the "efficient" treatment option of death.

Patients may find that their insurance carrier will not cover the "feasible alternatives" that their doctor explained to them but, instead, will pay for those patients to receive a prescription for death.

- **Initiative 11-12 would permit assisted-suicide prescriptions for mentally ill or depressed patients.**

Before receiving a prescription for death, patients do not need to have any psychological or psychiatric evaluation unless a doctor thinks that the patient is suffering from a psychiatric or psychological disorder or depression that *causes impaired judgment*. [Section 6] Even if a counseling referral is made, it may consist of only one consultation between the patient and a psychiatrist or a psychologist. That consultation is *only* to determine if the patient does not have "impaired judgment." [Section 6]

Even if the counselor determines that the patient has a mental disorder or disease, the prescription for suicide could still be written as long as the counselor determines that the patient's judgment is not impaired.

This provision is the same as that contained in Oregon's law where, in one year, not a single person – out of the 59 assisted-suicide deaths reported for that year – was referred for counseling.⁷ A study about the Oregon law found that it "may not adequately protect all mentally ill patients."⁸

- **Initiative 11-12 would allow drugs for suicide to be delivered to the patient by a third party.**

Nothing in Initiative 11-12 requires the patient to obtain the drugs in person. A pharmacist can give the lethal drugs to an "identified agent of the patient" such as a friend or acquaintance for delivery to the patient. [Section 4 (I)(ii)]

- **Initiative 11-12 would allow doctors to prescribe death for patients who could live for many years.**

Under Initiative 11-12, doctors can prescribe assisted suicide to patients who have a "terminal condition," which is defined as "an incurable and irreversible disease that

has been medically confirmed and will, within reasonable medical judgment, produce death within six months." [Section 1 (13)]

However, that definition does not require that the patient is expected to die within six months, *even with medical treatment*. Therefore, it is possible that a patient could be considered "terminal" for the purpose of qualifying for assisted suicide even if, with medical treatment, the patient could live much longer.

For example, diabetes is both incurable and irreversible. An insulin dependent diabetic patient who stops taking insulin will, within reasonable medical judgment, die within six months. Thus, under Initiative 11-12, diabetic patients could be eligible for doctor-prescribed suicide even though they could live virtually normal lives with insulin.

.....

¹ The text of Initiative 11-12 is available at: <http://www.mass.gov/ago/docs/government/2011-petitions/11-12.pdf> (last accessed 11/4/11).

² CDC National Vital Statistics Reports, 4/24/08.

³ "Suicides and Self-inflicted Injuries in Massachusetts: Data Summary", August 2010. Available at: http://www.mass.gov/Eeohhs2/docs/dph/injury_surveillance/suicide_update_aug10.pdf (last accessed 11/4/11).

⁴ "Elder-abuse cases on the rise in Massachusetts," *MetroWest Daily News*, Feb. 19, 2011. Available at: <http://www.metrowestdailynews.com/lifestyle/health/x268608620/Elder-abuse-cases-on-the-rise-in-Massachusetts> (last accessed 11/4/11).

⁵ KATU Television, "Letter noting assisted suicide raises questions." Interview about one such case and the response of the Oregon Health Plan. Available at: <http://www.katu.com/news/26119539.html> (last accessed 11/4/11).

⁶ Oregon Dept. of Human Services, "FAQs about the Death with Dignity Act." Available at: <http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Pages/faqs.aspx> (last accessed 11/4/11).

⁷ Official report of Oregon's Death with Dignity Act available at: <http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Documents/year10.pdf> (last accessed 11/4/11).

⁸ Linda Ganzini, Elizabeth R. Goy, Steven K. Dobscha, "Prevalence of depression and anxiety in patients requesting physicians' aid in dying: cross sectional survey," *British Medical Journal*, Oct. 25, 2008, pp. 973-978.

.....

Patients Rights Council
P.O. Box 760
Steubenville, OH 43952

<http://www.patientsrightscouncil.org>
740-282-3810 or 800-958-5678