

**Analysis of Ohio 2018 "End of Life Option Act"**  
(SB 249)

**This year, for the first time, the Ohio legislature will be considering a bill that would transform the crime of assisted suicide into a "medical treatment."**

*The Ohio bill, called the "End of Life Option Act" (SB 249), if passed, would permit a doctor to prescribe "aid-in-dying medication" to end the life of a patient if certain conditions are met. Many people assume that the "medication" would be "a pill" the patient could take and then "slip peacefully away." But this is false.*

*In states where doctor-prescribed suicide is legal, the vast majority of prescriptions are for 100 times the normal dose used for medicinal purposes. When the prescription is taken, the individual dies of a massive drug overdose.*

**Under the Ohio "End of Life Option Act":**

**An individual could obtain a prescription for a deadly drug overdose.**

The patient must be 18 years old or older.<sup>1</sup> (Ironically, an 18 year old would not be able to legally buy beer but could buy a prescription for deadly drugs.) The patient must have been diagnosed as having a terminal condition from which death is expected "within a relatively short time if life-sustaining treatment is not administered."<sup>2</sup> "Relatively short time" is an elastic term and could mean days, weeks, months or even years, depending upon who is interpreting it.

**Severely depressed patients could receive doctor-prescribed suicide without receiving any type of counseling.**

As long as the attending or consulting physician believes that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder, there is no requirement that a referral be made for a mental health assessment.<sup>3</sup> Such an assessment is only needed if the attending or consulting physician believes the individual may lack the capacity to make medical decisions or is suffering from impaired judgment.<sup>4</sup> An assessment is merely an evaluation. It is *not* counseling.

*Why wouldn't counseling be required for every patient before a doctor prescribes a lethal dose of drugs?*

**The bill permits someone else to administer the drugs to the patient.**

Although publicity for the measure often states that the patient must self-administer the drugs, the Ohio law only prohibits another person from administering the deadly overdose if it is done "without the individual's knowledge or consent."<sup>5</sup>

Of course, there is no way to determine if the patient actually knew or consented since there are no safeguards once the prescription is filled.

**Once the prescription for the drug overdose is filled, there are no "safeguards."**

Like the Oregon law, the bill only addresses activities taking place until the prescription is filled. There are no provisions to assure that the patient is competent at the time the lethal drug overdose is taken or that he or she knowingly and willingly took the drugs.

Due to this lack of protection, the bill would place patients at enormous risk. For example, someone who would benefit from the individual's death could trick or even force the person into taking the fatal drugs. And no one would ever know.

**The written request for doctor-prescribed suicide could be witnessed by someone who would benefit financially from the patient's death.**

The patient must make two oral requests and one written request.<sup>6</sup> The written request must be witnessed by two individuals, only one of whom may be entitled to any portion of the patient's estate upon death.<sup>7</sup> The second witness could be a close friend of the potential heir.

This places victims of elder abuse and domestic abuse in great danger since they are unlikely to share their fears with outsiders or to reveal that they are being pressured by family members to "choose" assisted suicide.

**The most marginalized individuals – poor, hardworking people – would be in particular danger.**

"Choice" is an appealing word but inequity in health care is a harsh reality.

The measure states that the doctor must inform the patient of all "feasible alternatives"<sup>8</sup> to prescribed suicide. However, discussing alternatives does not mean the patient will have the resources to access those other options.

*Why should the comfortably well off have a choice of treatment options while the poor are left with the only one they can afford – doctor-prescribed suicide?*

**Assisted suicide would be transformed from a crime into the least expensive "medical treatment" available.**

There would be tremendous emotional and financial pressure on patients. Insurance programs would have the opportunity to cut costs since they could deny payment for treatments that patients need and want while approving payment for the far less costly prescription for a drug overdose.

This is happening in states that permit doctor-prescribed suicide.

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."<sup>9</sup>

There is documented information about terminally ill patients in Oregon and California who were denied coverage for treatment by insurance providers and, instead, were told that doctor-prescribed suicide would be covered.<sup>10</sup>

In California, after finding that her insurance company would not cover the chemotherapy her doctor had prescribed, a woman asked if assisted suicide was covered under her plan. She was told, "Yes, we do provide that to our patients, and you would only have to pay \$1.20 for the medication."<sup>11</sup>

California pays for assisted-suicide drugs obtained by MediCal patients under the state's doctor-prescribed suicide law.<sup>12</sup>

*If the Ohio measure becomes law, will insurance programs do the right thing – or the cheap thing?*

**Required reports from participating physicians could lack most information.**

It's true that prescribing physicians must file report forms after the patient dies. The form contains a number of questions such as when and where the patient consumed the drugs; if there were any complications, etc. But for each question, there is the option of answering, "Unknown."

That's because the physician who prescribed the drugs doesn't need to be present or even know the circumstances surrounding that patient's death.<sup>13</sup>

**A patient could be led to request assisted suicide based on fear of being a burden to others.**

Many families are under tremendous strain. It would be foolhardy to ignore the role that finances could play when making life and death decisions.

Would some patients feel that they should request prescribed suicide so that they wouldn't be a financial or emotional burden on their family?

Even in families where there would be emotional and practical support for a patient diagnosed with a terminal illness, patients could feel that they are being selfish for not sparing others from caring for them. This has been documented in Oregon as a reason for requesting the prescription for death.

According to Oregon's latest official report, 48.9 percent of patients who died using that state's assisted suicide law did so to avoid being a burden on their family, friends or caregivers. (That number far exceeded those who cited pain or concern about pain as their reason.)<sup>14</sup>

While we would all like to believe that family means warmth, love and protection, we need to face the reality that dysfunctional families are not rare and elder abuse – much of it at the hands of a family member – is a fact of life.

**There is no way to know what is really happening once a doctor-prescribed suicide bill is passed.**

Advocates of doctor-assisted suicide point to official reports from Oregon, claiming that the data in those reports proves that the law is working well and is free of problems or abuse. But that claim is subject to skepticism since all information is from self-reporting by the very individuals who are carrying out doctor-prescribed suicide.

Those responsible for issuing official annual reports have acknowledged from the very beginning of Oregon's assisted-suicide law, that official reports may not be accurate or complete.

According to the Oregon Health Division: "The entire account [given by reporting doctors] may be a cock and bull story. We assume, however, that physicians were their usual careful and accurate selves."<sup>15</sup>

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*Isn't it ironic? At a time when there is tremendous concern about the epidemic of drug overdose deaths, there is a campaign in Ohio to promote drug overdoses for some people.*

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<sup>1</sup> Section 3792.01 (A).

<sup>2</sup> Section 3792.01 (P) (2).

<sup>3</sup> Section 3792.01 (L).

<sup>4</sup> Section 3792.08. Also see: Section 3792.09 (D) which requires "a report of the outcome and determinations made during a mental health specialist's assessment, *if performed*." (Emphasis added.)

<sup>5</sup> Section 3792.22 (B) (3).

<sup>6</sup> Section 3792.03 (A).

<sup>7</sup> Section 3792.03 (C) (1).

<sup>8</sup> Section 3792.01 (I) (5). Definition of "informed decision" requires that patients be informed of feasible alternatives or additional treatment opportunities.

<sup>9</sup> Oregon Dept. of Human Services, "FAQs about the Death with Dignity Act." Available at:

<http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Documents/faqs.pdf>. (Last accessed 12/12/17.)

<sup>10</sup> See, for example: Bradford Richardson, "Assisted-suicide law prompts insurance company to deny coverage to terminally ill California woman," *Washington Times*, October 20, 2016. Available at:

<http://www.washingtontimes.com/news/2016/oct/20/assisted-suicide-law-prompts-insurance-company-den>. (Last accessed 12/12/17.)

Also see: Susan Donaldson James, "Death Drugs Cause Uproar in Oregon," *ABC News*, August 6, 2008. Available at: <http://abcnews.go.com/Health/story?id=5517492&page=1>. (Last accessed 12/12/17.)

<sup>11</sup> Bradford Richardson, "Assisted-suicide law prompts insurance company to deny coverage to terminally ill California woman," *Washington Times*, October 20, 2016. Available at:

<http://www.washingtontimes.com/news/2016/oct/20/assisted-suicide-law-prompts-insurance-company-den>. (Last accessed 12/12/17.)

<sup>12</sup> Kimberly Leonard, "Californians Can Choose to Die – With the Help of Taxpayers," *U.S. News & World Report*, March 21, 2016. Available at: <https://www.usnews.com/news/articles/2016-03-21/in-california-government-to-pick-up-the-tab-for-death-with-dignity>. (Last accessed 12/12/17.)

<sup>13</sup> Section 3792.29. Attending Physician Follow-up Form.

<sup>14</sup> Official report for 2016 deaths under Oregon's Death with Dignity Act, pg. 10. Released in February 2017. Available at:

<http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Documents/year19.pdf>. (Last accessed 1/14/18.)

<sup>15</sup> Oregon Health Division, CD Summary, pg. 2 (See section titled "Study Limitations.") Available at:

<http://public.health.oregon.gov/DiseasesConditions/CommunicableDisease/CDSummaryNewsletter/Documents/199/ohd4806.pdf>. (Last accessed 1/15/18.)