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Patients Rights Council **Update**

With the new year comes more dangerous doctor-assisted suicide bills

It's becoming almost a tradition that the start of each new year brings with it a slew of new state measures to legalize doctor-prescribed suicide.

That was particularly the case last year—the result of assisted-suicide activist groups' ramped-up lobbying efforts in targeted states. By the first week of February 2017, 25 states had new assisted-suicide bills introduced in their respective state legislatures. Another two states had measures introduced as the year progressed.

But not one of those states passed a prescribed-suicide bill. Most rejected their bills outright, while the others took no action and let their bills carry over to 2018, the second year of those states' two-year legislative sessions.

So far, in 2018, the number of new assisted-suicide bills is far less than last year. The states with measures newly introduced are Arizona, Hawaii, Indiana, New Jersey, Ohio, Oklahoma, Rhode Island, and Utah. Incredibly, Hawaii had four new assisted-suicide bills introduced on one day, and New Jersey had two identical bills (called companion bills, meaning one introduced in each legislative chamber). All the rest of the states have single bills.

The states that had 2017 active bills carry over to 2018 are Alaska, Delaware, Hawaii, Iowa, Massachusetts, Michigan, Minnesota, Nebraska, New York, North Carolina, Pennsylvania, and Wisconsin. (See tables on page 2.)

Hawaii has a total of nine bills being considered by lawmakers: five carried over from 2017 plus the four new bills introduced in 2018. Oklahoma's new bill would not directly legalize doctor-assisted suicide. Rather, it would authorize that a referendum on legalization be put on the 2018 ballot for voters to approve or reject.

In 2017, doctor-prescribed suicide activists in South Dakota attempted to place a "Death with Dignity" initiative on the 2018 state ballot, but they failed to collect the 14,000 voter signatures required to do so. Advocates in Maine are currently trying to garner 60,000 signatures in the hope of putting an assisted-suicide measure on that state's 2018 ballot.

While all assisted-suicide measures pose real dangers to patients, several of the new measures are particularly worrisome.

Hawaii's 2018 bill, HB 2218, not only allows doctor-assisted suicide (the patient self-administers lethal drugs), but also explicitly permits active euthanasia (a doctor physically administers the fatal drug overdose to the patient, i.e., lethal injection). [HI HB 2218, Part III A § 22 (3)]

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Also in this *Update*

When "terminal" does *not* mean six months left to live

For years, the Patients Rights Council (PRC) has said that U.S. doctor-prescribed suicide laws and proposed bills—claiming to limit assisted suicide to those with six months or less to live—actually allow the induced deaths of patients who have years, even decades, to live.

Why? Because the definitions of "terminal illness" contained in those laws and bills do not specify that death will occur within six months even *with treatment*.

For example, if an insulin-dependent diabetic—who would live for many years taking insulin—decided to stop that treatment after the sudden death of her husband left her despondent, she would likely die within six months, making her eligible for assisted suicide. Oregon's official annual reports attest to this fact. Since 2003, all except the 2009 assisted-suicide report listed diabetes as an underlying condition for patients who died under the "Death with Dignity Act."

Last December, Fabian Stahle, a Swedish investigator who questioned his government's recent favorable report on Oregon's assisted-suicide law, decided to pose his questions to the Oregon Health Authority (OHA), the agency responsible for overseeing the prescribed-suicide law. He asked if the law would apply if a patient refused available treatment. OHA Research Analyst Craig New responded, "The law is best seen as a permissive law, and states only that patients must have a terminal illness with six months or less to live. It does not com-

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As of February 20 , 2018

New *2018* State Assisted-Suicide Bills

State	Bill	Introduced	In Committee
AZ	HB 2102	1/8/18	Health & Rules
HI	HB 2218 HB 2736 HB 2739 SB 2727	1/24/18 1/24/18 1/24/18 1/24/18	HHS & Judiciary HHS & Judiciary HHS & Judiciary CPH & Judiciary
IN	HB 1157	1/8/18	Courts & Criminal Code
NJ	A 1504 S 1072	1/9/18 1/22/18	Health & Senior Services HHS & Senior Citizens
OH	SB 249	1/24/18	Pending
OK	HB 2585 (Referendum)	2/5/18	Public Health
RI	H 7297	1/25/18	Health, Educ. & Welfare
UT	HB 210	1/23/18	House HHS

Active State Assisted-Suicide Bills Carried over from *2017*

State	Bill	Introduced	In Committee
AK	HB 54	1/18/17	HHS
DE	HB 160	5/2/17	Full House
HI	HB 150 HB 201 HB 550 SB 357 SB 1129	1/20/17 1/20/17 1/20/17 1/20/17 1/25/17	HHS & Judiciary HHS & Judiciary HHS & Judiciary CPH & Judiciary CPH & Judiciary
IA	HF 299 SF 215	1/14/17 2/7/17	Judiciary Human Resources
MA	H 1194 S 1225	1/23/17 1/23/17	Public Health Public Health
MI	HB 4461 HB 4462	3/30/17 3/30/17	Health Policy Health Policy
MN	SF 1572 HF 1885	2/27/17 3/1/17	HHS Finance & Policy HHS Reform
NE	LB 450	1/17/17	Judiciary
NY	A 2383 S 3151 A 3598	1/19/17 1/20/17 1/27/17	Health Health Health
NC	HB 789	4/11/17	Rules
PA	SB 238	1/26/17	Judiciary
WI	AB 216 SB 312	4/10/17 6/23/17	Health HHS

HHS = Health & Human Services Committee
CPH = Commerce, Consumer Protection, & Health Committee

Editor's note: *Readers who are concerned about their state's bill or bills should contact state lawmakers. See patientsrightcouncil.org for more information on individual bills.*

Colorado & Vermont issue 1st assisted-suicide reports

There are several things that Colorado's and Vermont's doctor-prescribed suicide reports have in common. They are the first data reports each state has released—even though Vermont legalized assisted suicide three years before Colorado did in 2016. Vermont's report covers deaths from May 2013 to June 2017; Colorado's covers only 2017 deaths.

The amount of missing data in each report is staggering. In Colorado, that's largely because official reporting forms, required by law, were never submitted to the state. The report shows that 69 patients received lethal drug prescriptions, but the state received only 60 prescribing-doctor reports, 47 patient's written death requests, 1 mental health confirmation, and 27 consulting doctor reports. The state has only 56 deaths certificates related to patients who were prescribed overdoses, but, because the law mandates that prescribed-suicide doctors lie on patients' death certificates by listing patients' underlying illnesses as the cause of death,

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Likewise, the wording in Ohio's bill implies that the administration of the lethal drugs to the patient would be allowed if it is done with "the individual's knowledge or consent." [OH SB 249, Sec. 3792.22 (B)(3)]

An alarming, recent amendment to Delaware's HB 160 expands prescribed death to those who have an "intellectual disability," defined as "a disability, that originated before the age of 18, characterized by significant limitations in both intellectual functioning and in adaptive behavior, which covers many everyday social and practical skills." Such a patient could qualify for a lethal drug prescription if a "clinical social worker" says the patient truly understands the assisted-suicide information he or she has been given. [DE HB 160, Amendment 2, Lines 30-31 & Line 106, 1/18/18]

"These are people who *can't legally enter contracts*! They *can't control where they live*! They *can't make their own medical decisions*! They also *can't vote*, pursuant to the Delaware Constitution," wrote PRC consultant Wesley J. Smith. "Yet, if they have a terminal illness, *they are going to be able to commit assisted suicide if a social worker*—who may be ideologically predisposed in favor—*confirms that they 'understand' that they are receiving a poison prescription!"* [*National Review,* 1/22/18] ■

When "terminal" does *not* mean six months left to live, *cont. from page 1*

pel patients to have exhausted all treatment options first, or to continue current treatment. It is up to the patient and doctor to discuss disease and treatment options."

Stahle also asked New if a patient's insurance refused to pay for a life-sustaining treatment and the patient was unable to pay for that treatment would the patient qualify for assisted suicide. New answered, "If the patient does not receive treatment or medication (for whatever reason) and is left with a terminal illness, then s/he would qualify for the DWDA. I think you could also argue that *even if the treatment/medication could actually cure the disease, and the patient cannot pay for the treatment, then the disease remains incurable."* [Fabian Stahle, "Oregon Health Authority Reveals Hidden Problems with the Oregon Assisted Suicide Model," 1/18; emphasis added by Stahle]

Dr. Charles Blanke, an oncologist and professor of medicine at Oregon Health and Science University, had a patient who was a young woman with a serious illness. She had a 90 percent chance of living for decades with treatment—but she refused the treatment. "That was a very challenging situation," Blanke said. "You have to ask yourself, 'Why doesn't that patient want to take a relatively non-toxic treatment and live for another seven decades?'" Blanke ended up prescribing the deadly overdose for the woman anyway. [*Bend Bulletin,* 8/14/17] ■

Oregon releases 2017 prescribed-suicide report with high death count

On February 9, 2018, the Oregon Health Authority's Public Health Division released its annual data report on doctor-assisted-suicide deaths that occurred in 2017. It is the 20th prescribed-suicide report that the state has published since the Death with Dignity Act (DWDA) took effect in 1997.

According to the 2017 report, a record high 143 patients ingested death-inducing drugs prescribed by their doctors. These are only the deaths that doctors reported to the state. Any deaths that were not reported by physicians remain unknown because the state has no authority to investigate individual DWDA cases.

Ninety-two (92) doctors wrote 218 prescriptions for lethal overdoses in 2017. The identity of those doctors is not reported, but the data shows that the number of prescriptions per doctor ranged from 1 to 29.

Of the 218 patients with drug prescriptions written in 2017, 130 ingested the drugs; 44 did not, but died of other causes; and, for the remaining 44 patients, their "ingestion status" is "unknown." However, the state report indicates that 143 actually died from ingesting the drugs. That's because an additional 14 patients, who had been prescribed the fatal drugs in "previous years," took the drugs in 2017. The fact that patients had received the drugs in prior "*years"* indicates that, at least for some of those patients, their prescribing and consulting doctors were wrong when they determined that the patients had less than six months to live—a requirement for patients to be eligible for assisted suicide.

There were really 144 patients who took the drug overdose in 2017, but one didn't die. That patient regained consciousness and later died of his or her underlying illness. This is not the first time that has happened. Two patients awoke in 2010, two in 2011, and one in 2012. Over the course of 20 years, seven patients have awakened after taking the drugs. Other complications reported include difficulty ingesting the drugs, regurgitation, and seizures.

Only five (3.5%) of the 143 patients who died had been referred for a psychiatric evaluation. [Oregon Health Authority, "Oregon Death with Dignity Act - 2017 Data Summary," 2/9/18] ■

Reported Assisted-Suicide Deaths in Oregon 1998-2017

Report data supplied by lethally prescribing doctors, pharmacist reports, and death certificates.[1]
Figures are those reported by the state in the 2017 report.

Categories	1998 - 2014	2015	2016	2017	TOTAL
No. of reported assisted-suicide deaths	859[2]	135	138[2]	143	**1275**[2]
No. of unreported assisted-suicide deaths	Unknown[1]	Unknown[1]	Unknown[1]	Unknown[1]	**Unknown**[1]
No. of reported lethal prescriptions written	1327	218	204	218	**1967**
No. of doctors who wrote lethal prescriptions in a given year	?[3]	106	102	92	**?**[3]
No. of cases where prescribing doctor was present when lethal drugs were ingested:	→	→	163[4]	24	**187**
Other care provider present:	→	→	270[4]	24	**294**
No provider present:	→	→	91[4]	6	**97**
Unknown:	→	→	*538*[4]	*89*	***627***
No. of cases where prescribing doctor was present at the time of death:	→	→	149[4]	23	**172**
Other care provider present:	→	→	295[4]	19	**314**
No provider present:	→	→	595[4]	101	**696**
Unknown:	→	→	*23*[4]	*0*	***23***
No. of patients referred for psychiatric evaluation	→	→	57 [5.1%]	5 [3.5%]	**62 [4.9%]**
Patients' reasons for requesting assisted suicide:					
Loss of autonomy	→	→	1029 [92%][4]	125 [87%]	**1154 [91%]**
Inability to do enjoyable activities	→	→	1011 [90%][4]	126 [88%]	**1137 [90%]**
Loss of dignity	→	→	769 [77%][4]	96 [67%]	**865 [76%]**
Lost control of bodily functions	→	→	526 [47%][4]	53 [37%]	**579 [46%]**
Being a burden	→	→	475 [42%][4]	79 [55%]	**554 [44%]**
Inadequate pain control or concern about it	→	→	297 [26%][4]	30 [21%]	**327 [26%]**
Financial implications of treatment	→	→	39 [4%][4]	8 [6%]	**47 [4%]**
Complications after lethal drugs were ingested:					
Difficulty ingesting/regurgitated	→	→	24[4]	1	**25**
Patient regained consciousness	→	→	6[4]	1	**7**
Seizures	→	→	0	2	**2**
Other	→	→	6	1	**7**
Unknown	→	→	*537*[4]	*101*	***638***
Reported incidents of physician non-compliance with the assisted-suicide law[5]	22[5]	0	0	0	**22**[5]
Penalties imposed for non-compliance with the assisted-suicide law[5]	0	0	0	0	**0**

Notes:

1. **The Oregon Public Health Division (OPHD), the agency responsible for overseeing the practice of doctor-prescribed suicide, has acknowledged that it has no way of knowing if deaths went unreported or if the information provided by prescribing doctors is accurate or complete. The Pharmacy Dispensing Report simply asks for general information (i.e., patient & physician names and drugs prescribed) but has no data on patient cases. Death certificates, by law, do not even indicate drug overdose as the true cause of death. Also, the total number of deaths reported for specific years since 1998 are increased retrospectively when OPHD receives data on an assisted-suicide death that was not previously included in that year's annual report.**
2. **The 2017 Report reflects the official totals from 1998 to 2017. However, some of the previous years' totals, as listed in each year's individual report when issued, were changed in subsequent years with no explanation given.**
3. **Since the OPHD reports do not identify the individual, lethally-prescribing doctors, there is no way to determine the total number of doctors who wrote prescriptions beyond a year at a time.**
4. **In the 2017 Report, this is the combined total for 1998 through 2016. In some categories, the totals may differ from figures reported in previous years. No explanation for the change was given.**
5. **Category is not included in the 2017 Report's tables. (Regarding doctor compliance, the text states, "no referrals were made to the Oregon Medical Board for failure to comply with DWDA requirements." The 22 cases of non-compliance listed above were cited in previous annual reports. No doctor has ever been penalized for non-compliance.)**

Source:

Oregon Public Health Division, "Oregon Death with Dignity Act - Data Summary 2017 ," released 2/9/18.

All 20 annual reports are available online at: http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Pages/ar-index.aspx

News briefs from home & abroad . . .

- **USA:**
  - According to a recent nationwide survey—conducted by the Institute for Healthcare Improvement's National Patients Safety Foundation and the National Opinion Research Center at the University of Chicago—21 percent of adults have personally experienced medical errors and 31 percent said that someone else whose care they were involved with had endured a medical error. Researchers also found that these errors had a lasting impact on patients' health, financial well-being, and family relationships. Most often errors occurred in outpatient settings, and they were often related to the patient's diagnosis and patient-provider communication. [IHM-NPSF & NORC Press Release, 9/28/17] Another previous study, published in the *British Medical Journal*, found that medical errors are the third leading cause of death in the U.S. [*BMJ*, 5/3/16]
  - In January, the U.S. Department of Health & Human Services (HHS) announced the creation of a new Conscience and Religious Freedom Division within the agency's Office for Civil Rights. The stated purpose of the new division is to restore federal enforcement of existing laws that protect fundamental conscience and religious freedom rights in health care. One such statute can be found in Section 1553 of the Affordable Care Act, which prohibits discrimination against individuals and health care entities for not providing services that "cause, or assists in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing." Even though this and other laws were already on the books, the assisted-suicide activist group, Compassion & Choices (C&C), expressed strong opposition to the creation of HHS's new division. C&C's CEO, Kimberly Callinan, called the HHS office "an outrageous and unprecedented assault on our personal liberty and freedom." [C&C Email to supporters, 2/6/18]
- **Canada:** A panel of three Superior Court of Ontario judges has ruled that doctors who conscientiously object to ending a patient's life under Canada's euthanasia law must effectively refer that patient to a doctor who will. The case was brought by three professional physician groups and five individual doctors, all of whom argued that the Ontario College of Physicians & Surgeons' policy requiring effective referrals violated their religious and conscience rights guaranteed under Canada's Charter of Rights and Freedoms. The court, however, ruled that the public interest goal of ensuring equitable access to services such as euthanasia outweighed doctors' conscience rights. For doctors to refuse to refer patients to a willing colleague would amount to patient abandonment. The court also upheld the requirement that, in an emergency situation, doctors must perform ethically objectionable services. [CMDS et al. v. CPSO, No. 499/16/500/16, 1/31/18] The ruling will likely be appealed.
- **Belgium & the Netherlands:** Dr. Ludo Van Opdenbosch, who resigned from Belgian's Federal Commission for Euthanasia Control and Regulation, revealed that the commission voted not to refer a case to prosecutors that violated multiple provisions of Belgian's euthanasia law. The case involved a woman with dementia who was euthanized at her family's request but without any request from the woman. "The intention was to kill the patient," Van Opdenbosch wrote. The GP who ended her life wasn't aware of other options and was "totally incompetent." [Resignation Letter, 9/17]

  In the Netherlands, 29-year-old Aurelia Brouwers, a physically healthy young woman with mental health issues, was legally euthanized on January 26, 2018, at her request. ■

CO & VT issue 1st assisted-suicide reports, *cont. from page 2*

the state has no way of knowing if deceased patients took the drugs or died from other causes. [CO End-of Life Options Act, Year One—2017 Data Summary, p. 4, 2/1/18]

Vermont's report is exceedingly sparse on data. During the 3-year reporting period, 52 patients qualified for assisted suicide. Of those, 48 obtained the lethal drugs and died. Of those, 29 died after ingesting the drugs, 17 died from their illness, 1 died from other causes, and 1 patient's status is unknown. The remaining 4 patients "are assumed to still be living." But the state then seemingly contradicts its own figures by stating that it has only been able to "positively identify 26 out of the 48 deceased" patients who filled their prescriptions. Out of the remaining 22 deceased patients, 7 "were likely prescribed" lethal drugs, but the state isn't sure. What happened to the remaining 15 patients is anybody's guess. [VT Report Concerning Patient Choice at the End of Life, p. 4, 1/15/18] ■

The Patients Rights Council is a human rights group formed to promote and defend the right of all patients to be treated with respect, dignity and compassion and to work with individuals and organizations to resist attitudes, programs and policies which threaten the lives of those who are medically vulnerable. To those ends, the PRC compiles well-documented and up-to-date information on a whole range of end-of-life issues, including health care advance directives, futile care policies, health care reform, and doctor-prescribed death.

The *Update* is available to the general public; suggested minimum donation is $25.00 [U.S.] a year. Add $3.00 for foreign postage.

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