STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
Margaret M. O'Neill Bldg., Suite 1, Room 311
410 Federal Street
Dover, Delaware 19901
302-739-3621

The Honorable John Carney
Governor

John McNeal
SCPD Director

MEMORANDUM

DATE: January 18, 2021

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Terri Hancharick – Chairperson TH
State Council for Persons with Disabilities

RE: H.B. 140 (Medically Assisted Suicide)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 140, which allows a "terminally ill" adult individual to request medication to end the individual's life. SCPD continues to oppose any assisted suicide legislation and has the following observations.

Based, in part, on the National Council on Disability's federal study, *The Danger of Assisted Suicide Law*,[1] SCPD strongly advises state lawmakers not to legalize any form of assisted suicide or active euthanasia, whether called by those terms or others, but rather to pursue a strong healthcare system that includes long-term services and supports for all people, including people with disabilities with and without a terminal prognosis. The following briefly summarizes a few of the key findings as to why we strongly caution against efforts to legalize assisted suicide.

First, although assisted suicide bills are promoted as ways to assist in relieving suffering at the end of one's life, the study of available data found that the top five reasons doctors note that their patients' give for making assisted suicide requests do not include pain or fear of future pain. Although that alone is noteworthy given the sound bites associated with the "need" for such laws, even more striking are the top five reasons given – "loss of autonomy" (95.5 percent), "less able to engage in activities" (94.6 percent), "loss of dignity" (87.4 percent), "losing control of bodily functions" (56.5 percent), and "burden on others" (51.6 percent).[2] To those long familiar with disability policy, these all sound like cries for help warranting examination of

existing policies and resources. Given these options are even available as boxes to check in the Oregon state reports indicate that these are viewed as acceptable reasons for people to seek to end their lives with assistance, even though each one is a disability-related psychological expression. From a policy perspective, these should be addressed through health care and supports and services, just as if a person with a disability who is nonterminal had made the same expression. Legalizing assisted suicide removes the impetus to address underlying policy concerns that these reasons suggest may exist.

Second, assisted suicide laws contain provisions purporting to safeguard patients from problems and abuse, but research in the report showed that these provisions are wholly ineffective and often fail to protect patients in a variety of ways, including:

- Though promoted as creating choice for people at the end of life, in states where assisted suicide is legal, insurers have denied expensive, life-sustaining medical treatment for those who seek to fight their illness or simply lengthen their lives, but have offered to subsidize the lethal assisted suicide drugs, foreclosing choice and potentially leading to patients hastening their deaths.
- There are certainly misdiagnoses of terminal disease and/or prognosis, which can cause frightened patients to hasten their deaths. SCPD is aware of living examples of people having vastly outlived their original diagnoses.
- People who experience depression are at increased risk of harm where assisted suicide is legal.
- Assisted suicide laws apply the lowest legal culpability standard available to doctors, medical staff, and all other involved parties – that of a good faith belief that the law is being followed – which creates incredible potential for abuse.

Third, with strict privacy and confidentiality provisions, assisted suicide laws heavily restrict the collection and analysis of data, which prevents meaningful oversight. Where assisted suicide is legal, states have no means of investigating mistakes or even reports of abuse.

Fourth, despite the restricted data available, there is already ample evidence of problems in states that have legalized the practice. In addition to anecdotal evidence detailed in NCD's report, in the limited state data available from Oregon, where assisted suicide has been available the longest time, except for the first year, people whose illnesses did not result in death within six months have received lethal prescriptions in all 20 years the law has been in effect.[3] And far from only being for those with supposed terminal illnesses, data from Oregon shows that scores of people with a host of conditions that when treated are not at all terminal nonetheless accessed the lethal drugs. These conditions included people with diabetes, arthritis, kidney failure, and gastrointestinal diseases, amongst many others.[4]

Fifth, couple these grave shortcomings with the fact there is no required evidence of consent or self-administration of the lethal drugs, though required as a purported safeguard, there is really no way for authorities to know whether the lethal dose was self-administered and consensual at the time of its ingestion. In Oregon, the state with the longest record, in about half the cases, no

healthcare provider was present at the time of ingestion of the lethal drugs or at the time of death.[5]

Sixth, while it has been publicized that a majority of individuals support assisted suicide legislation in Delaware, SCPD questions the methodologies of any studies/polls that show this statistic, since just about every national disability organization opposes assisted suicide laws. See Disability Groups Opposed to Assisted Suicide Laws | Not Dead Yet

NCD's *The Danger of Assisted Suicide Laws* report details many individual examples of the dangers outlined in this letter and many others. SCPD urges your careful reading of the report in its entirety and your consideration of its findings and recommendations as you deliberate HB 140, and vote no on this legislation.

Thank you for your time and consideration.

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[1]National Council on Disability, *The Danger of Assisted Suicide Laws* (2018), https://ncd.gov/sites/default/files/NCD_Assisted_Suicide_Report_508.pdf, accessed February 25, 2020.

[2] Oregon Death with Dignity Act, 2018 Data Summary.

[3] Not Dead Yet, "Oregon State Assisted Suicide Reports Substantiate Critics' Concerns", May 16, 2018, http:// notdeadyet.org/oregon-state-assisted-suicide-reports-substantiate-critics-concerns. "The Oregon Health Division assisted suicide reports show that non-terminal people receive lethal prescriptions every year except the first. . . . The prescribing physicians' reports to the state include the time between the request for assisted suicide and death for each person. However, the online state reports do not reveal how many people outlived the 180-day prediction. Instead, the reports give that year's median and range of the number of days between the request for a lethal prescription and death. . . . In 2017, at least one person lived 603 days; across all years, the longest reported duration between the request for assisted suicide and death was 1009 days. In every year except the first year, the reported upper range is significantly longer than 180 days (six months). [Yet] the definition of 'terminal' in the statute . . . requires that the doctor predict that the person will die within six months." It cannot be known whether those who took the lethal drugs within the 180 days would have lived longer had they waited longer. 78 Death with Dignity Data, Washington State

[4] Oregon Health Authority, Public Health Division, Oregon Death with Dignity Act, 2017 Data Summary, 9 including n. 2, https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/ DEATHWITHDIGNITYACT/Documents/year20.pdf.

[5] Ibid.

cc: Ms. Laura Waterland, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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