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Submitted Testimony Re: HB 5417 "An Act Concerning End-of-Life Care"

Senator Gerratana, Senator Somers, Representative Steinberg, and members of the Public Health Committee, thank you for the opportunity to address HB 5417 today. My name is Kevin Semataska. I am currently a J.D. candidate at the University of Connecticut School of Law.

I offer these comments, on my own behalf, in opposition to HB 5417 "An Act Concerning End-of-Life Care." I base my opposition on: (1) belief that physician aid in dying is contrary to human dignity; (2) the consequence of misdiagnosis; and (3) the current bill provides inadequate conscience protection.

Physician Aid in Dying is Contrary to Human Dignity

Both opponents and proponents of the current bill would likely agree that human life is inherently valuable and that all humans are endowed with dignity by virtue of being human. At the heart of the current bill are questions regarding how to honor and protect human dignity at the final stages of life.

Previous versions of the current bill have failed in 2013 (HB 6645), 2014 (HB 5326), and 2015 (HB 7015). Each time, numerous citizens expressed concern that physician aid in dying is incompatible with human dignity. Today, I echo such concerns. Borrowing from testimony previously before this legislature, the following summarizes my view on human dignity and end-of-life care:

> "Opponents of physician assisted suicide, above all else, cherish the dignity of human life. We identify the source of human value in one simple and self-evident notion: dignity is inherent. It is not dependent on health, vigor, beauty, physical prowess, or any other notion of corporeal excellence."[1]

Once we begin to qualify the value of human life, we begin to draw a line where a line ought not exist. The current bill draws that line once an individual has been diagnosed with "terminal illness," defined as "the final stage of an incurable and irreversible medical condition that an attending physician anticipates, within

[1] Written Testimony of Rev. Deacon Tom Davis, https://www.cga.ct.gov/2014/PHdata/Tmy/2014HB-05326-R000317-Rev.%20Deacon%20Tom%20Davis-TMY.PDF.

reasonable medical judgment, will produce a patient's death within six months."[2] Once a person is deemed "terminally ill," s/he might qualify to receive a lethal drug.

In effect, this bill deems human life disposable once a physician predicts an individual will die within six months. Such a result is contrary to human dignity. An individual becomes no less human and an individual's life becomes no less valuable six months prior to death than at any other moment of life.

Consequence of Misdiagnosis

This bill's definition of "terminal illness" defers to a physician's "reasonable medical judgment." But, the bill does not—and cannot—define "reasonable medical judgment" with precision. The danger of this vague standard is that a physician's misdiagnosis or incorrect prognosis could expand the class of persons eligible for aid in dying. The decision to die would be permitted based, in part, on a physician's willingness to bet against the person's survival.

Inadequate Conscience Protection

As written, this bill requires further clarity regarding the conscience protections it would afford a health care facility. Under Section 1(8), a "'Health care facility' means a hospital, residential care home, nursing home or rest home … ." Faith-based health care facilities will likely object to assisting with physician aid in dying. This objection would likely apply not only to provision of a lethal drug, but also to cooperating with steps leading to that moment.

Section 13 of the current bill seems to afford conscience protection to a "health care provider"[3] that would not apply to a "health care facility." The only explicit conscience protection this bill affords a health care facility is protection against administering the lethal drug. Under Section 13(d), a health care facility may "adopt written policies prohibiting a health care provider associated with such health care facility from participating in *provision of medication* to a patient for aid in dying."

But, it is less clear whether a health care facility would be required to comply with the steps leading to "provision of medication." Under section 13(a), "'Participate in the provision of medication' does not include … informing a patient concerning the provisions of this section, sections 1 to 12, inclusive, of this act and sections 16 to 19, inclusive, of this act, upon the patient's request; or … referring a patient to another health care provider for aid in dying."

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[2] Raised Bill No. 5417, Section 1 (19), https://www.cga.ct.gov/2018/TOB/h/2018HB-05417-R00-HB.htm.

[3] Under Section 1(7) "Health care provider" includes, but is not limited to "a physician, psychiatrist, psychologist or pharmacist."

Accordingly, once a patient requests aid in dying, the health care facility might be forced to comply with Section 6 requirements to: determine whether the patient has a "terminal illness," conduct an evaluation of mental competence, determine whether the request for aid in dying was made voluntarily, require the patient to provide proof of Connecticut residency, inform the patient of "the potential risks associated with self-administering" lethal medication, and seek a second opinion to confirm that the patient qualifies for aid in dying. If the health care facility deems the patient eligible to receive aid in dying, but does not wish to administer a lethal drug, then under Section 13 the health care facility "*shall* transfer all relevant medical records to any health care provider or health care facility, as directed by a qualified patient."

Consequently, a health care facility might be forced to deem a patient competent and qualified to receive aid in dying and then send its evaluation to another provider or facility that will perform the final task. Even if a given health care facility does not provide the lethal drug, its evaluation might permit another health care facility to do so.

I would urge this legislature to protect our state's faith-based health care facilities. Without adequate conscience protection, Connecticut's faith-based hospitals and non-profit health care facilities might be forced to select among the following: comply with a morally objectionable mandate; potentially face legal penalties for refusing to comply; or stop providing end-of-life care altogether.

I am grateful for the opportunity to address these concerns and appreciate your careful consideration of all the issues the current bill raises. Thank you for your time.

-Kevin Semataska

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