Disability Rights California
California's protection & advocacy system

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Principles: Physician-Assisted Suicide

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Disability Rights California (DRC) adopted these principles to make sure the experience and rights of people with disabilities are understood and respected in the debate about proposed physician-assisted suicide legislation or ballot initiatives. The lives of people with disabilities have not been regarded as fully valuable in the health care system and in society overall. Unequal access to services, including health services, remain; fears and stereotypes about living with a disability persist.

Because of that, these principles identify practices which would help safeguard people with disabilities, including seniors, from being the victims of undue influence, coercion, misinformation, lack of information, or discrimination, any of which precludes truly informed choice.

DRC has no position on the concept of assisted suicide. These principles are standards against which to measure specific proposed legislation or ballot initiatives on physician-assisted suicide.

Any proposed legislation or initiative legalizing physician-assisted suicide must:

- Ensure and document that the patient is safe from coercion or influence at all times, including during the written and oral request and after the initial request for the drug, so that if the patient changes her mind, the drug is no longer available.

- Ensure and document that the request for assisted suicide originated from the patient; forbid health providers or insurers from offering or suggesting it.
- Ensure and document how the physicians and witnesses determined whether the patient is clear in her or his wishes, is not under duress or experiencing coercion or undue influence. If the decision conflicts with a previous statement or document, such as one requesting continuing treatment or extraordinary life-sustaining treatment, the reason must be documented.
- Ensure and document that each patient who requests a lethal drug is provided information about and guaranteed provision of alternatives, such as palliative care, hospice care, personal assistance services, further medical treatment and peer support and counseling. Provision of a list of services does not satisfy this requirement. The patient has the right to refuse the alternatives and the refusal shall be documented in writing.
- Ensure that individuals with disabilities are not discriminated against. Ensure that individuals with disabilities, including seniors, are offered medical treatment on a non-discriminatory basis and require the treating physician to sign a statement stating that no treatment has been denied because of the nature or extent of a person's disability prior to authorizing a lethal drug. The patient has the right to refuse any medical treatment and that refusal shall be documented in writing.
- Ensure that managed care entities and other health insurance companies have not overruled the physician's treatment decisions because of the cost of care by requiring the treating physician to sign a statement that the physician's recommended treatment was not denied by the managed care entity or health insurance company.
- Prior to prescribing a lethal drug, require and document a review of the individual's Advance Directive and/or Physician's Order for Life Sustaining Treatment and ensure that the individual's instructions regarding withdrawal of treatment and palliative care have been honored. For individuals who do not have an Advance Directive or Physician's Order for Life Sustaining Treatment, provide information and independent assistance in completing an advanced directive prior to authorizing a lethal drug.

- Allow the patient to decide whether the official cause of death shall be the lethal drug or the underlying diagnosis.
- Require a stakeholder committee, including California's protection and advocacy agency and other representatives of people with disabilities, to design the regulations, oversight, specific safeguards, reporting requirements, and the collection and publishing of data on a variety of measures, all to happen before any assisted suicide pursuant to the statute. The data must include information about the race, ethnicity and income of the people who request the lethal prescription. The committee shall be provided with data about whether predictions of date of death are accurate, and it shall track the accuracy of these predictions by doctors who prescribe the lethal dose. The data shall include patterns of prescription, which might be related to "doctor-shopping."

Any proposed legislation or initiative legalizing physician-assisted suicide must:

- Prohibit broad protections for physicians or other providers who act "in good faith" even if the physician misdiagnoses, declines to provide medical treatment for the underlying condition, declines to approve palliative care, encourages assisted suicide as preferable to other alternatives, or knows about and does not report coercion or influence by anyone.
- Prohibit anyone with a financial stake in the death, including heirs and facility staff (e.g., nursing home staff) from being a witness to the written declaration requesting assisted suicide.
- Prohibit any witness without significant knowledge of the patient from assessing whether the patient is under duress, fraud or undue influence.
- Prohibit physicians who are new to the patient (e.g., nursing home attending and consulting physician) to make and confirm a diagnosis and approve the lethal drug.