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Disability Rights Education & Defense Fund

# A Progressive Case Against An Assisted Suicide Law

WHY PROGRESSIVES AND DISABILITY RIGHTS ORGANIZATIONS  
ARE OPPOSED TO ASSISTED SUICIDE LAWS

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# NATIONAL PROGRESSIVE & DISABILITY RIGHTS ORGANIZATIONS THAT OPPOSE THE LEGALIZATION OF ASSISTED SUICIDE

*American Disabled for Attendant Programs Today  
(ADAPT)*

*Disability Section  
of the American Public Health Association*

*American College of Physicians – American Society of  
Internal Medicine (ACP – ACIM)*

*Justice for All (JFA)*

*American College of Pediatricians*

*League of United Latin American Citizens (LULAC)*

*American Geriatrics Society  
(AGS)*

*National Council on Disability*

*American Medical Association (AMA)*

*National Council on Independent Living*

*American Nursing Association*

*National Spinal Cord Injury Association*

*Association of Programs for Rural Independent Living  
(APRIL)*

*Not Dead Yet (NDY)*

*Patients Rights Council*

*Autistic Self-Advocacy Network (ASAN)*

*Physicians for Compassionate Care*

*Disability Rights Center*

*TASH*

*Disability Rights Education & Defense Fund  
(DREDF)*

*World Association of Person with Disabilities (WAPD)*

*Disability Rights Enforcement Education Services  
(DREES)*

*World Institute on Disability (WID)*

## **PROGRESSIVE/CENTER-LEFT STATES HAVE CONSISTENTLY REJECTED ASSISTED SUICIDE LAWS**

*Many are familiar with the legalization of assisted suicide in Oregon, Washington and the recent legalization in Vermont. But the truth about legalization efforts is far more telling, as a number of states have consistently rejected legalization.*

**1992**

California voters reject Proposition 161 by a margin of 54% to 46%

**1998**

Michigan's Measure B fails by a margin of 71% to 29%

**1999**

AB 1592 in California dies in committee

**1999**

A bill to legalize assisted suicide (SB 677) in New York fails

**2000**

Maine voters send Question 1 down in defeat 51% to 49%

**2005**

Again, California legislators reject assisted suicide by tabling AB 654

**2006**

California's AB 651 fails in committee.

**2007**

California lawmakers abandon AB 374 under stiff opposition from progressive groups

**2009**

Hawaii's HB 587 fails to make it out of the legislature

**2009**

SB 1138 in Connecticut fails

**2012**

Massachusetts voters reject Question 2 51% to 49% with progressive opposition

**2013**

HB 6645 in Connecticut is defeated in the legislature

**2013**

Massachusetts again rejects assisted suicide bill H 998

**2014**

HB 5326 in Connecticut is referred to committee, killing the bill

**2014**

HB 1325 in New Hampshire is decisively defeated in the house 219-66

# WHY PROGRESSIVES SHOULD OPPOSE ASSISTED SUICIDE LAWS

By Marilyn Golden, Senior Policy Analyst for the Disability Rights Education & Defense Fund – [www.DREDF.org](http://www.DREDF.org)

\*Originally printed Fall 2006

In January the California State Senate begins hearings on AB 651, which would legalize assisted suicide in California. A similar bill was presented in the State Assembly last year but didn't even come to a vote because of overwhelming Democrat and Republican opposition. There is a widespread



“I am an outlier, in that I am a registered Democrat and progressive, as well as a physician who has cared for people with life-threatening conditions for more than three decades. I support universal health care, voting rights, disability rights, women’s rights, Planned Parenthood, gay marriage, alternative energy, and gun control. I yearn to see an end to the war on drugs and the war in Afghanistan. **And, I am convinced that legalization of physician-assisted suicide is something my fellow progressives should fear and loathe.**”

-Ira Byock Director of palliative care at Dartmouth-Hitchcock Medical Center in Lebanon, N. H.

[Source: the Atlantic, “Physician Assisted Suicide is Not Progressive.” Ira Byock, 10/25/12]

*“Assisted Suicide legalization is a direct threat to anyone that is viewed as a significant cost liability to public or private healthcare providers.”*

*-Catharine Campisi PhD.,  
Former Director of the  
California Department of  
Rehabilitation*

*[Source: Letter to Assemblymember Mariko Yamada, February 19<sup>th</sup>, 2013]*

public perception that those opposed to legalization are religious conservatives, and the logical position for a liberal is in support. But the coalition that's formed to oppose the bill, Californians Against Assisted Suicide, shows a diversity of political opinion that may be surprising to those who have not looked closely at the issue. In opposition are numerous disability rights organizations, generally seen as liberal-leaning; the Southern California Cancer Pain Initiative, a group associated with the American Cancer Society; the California Medical Association; and the League of United Latin American Citizens, the oldest civil rights group in California. Catholic organizations are in the mix, but no person would consider this a coalition of religious conservatives.

This is a diverse coalition representing many groups coming together across the political spectrum. Why?

If patients with limited finances are denied other treatment options by their insurance, they are, in effect, being steered toward assisted death. ***It is no coincidence that the author of Oregon’s assisted suicide law, Barbara Coombs Lee, was an HMO executive when she drafted it.***

A 1998 study from Georgetown University's Center for Clinical Bioethics underscores the link between profit-driven managed health care and assisted suicide. The research found a strong link between cost-cutting pressure and a willingness to prescribe lethal drugs to patients, were it legal to do so. The study warns that there must be "a sobering degree of caution in legalizing [assisted suicide] in a medical care environment that is characterized by increasing pressure on physicians to control the cost of care."

The California bill is modeled after a nearly identical law that went into effect in Oregon in 1997. A closer look at Oregon highlights the many flaws.

Each year, Oregon publishes a statistical report that leaves out more than it states. For example, several of these reports have included language such as, "We cannot determine whether assisted suicide is being practiced outside the framework of the law."

The statute provided no resources or even authority to detect violations. All we know comes from doctors who prescribed the drugs, not family members or friends who probably have additional information about the patients. Doctors that fail to report their lethal prescriptions face no penalty. The state doesn't even talk to doctors who refused to assist the very same patients other physicians later helped to die, though

these doctors who first said "no" may have viewed the patients as not meeting legal requirements, important information if one wishes to evaluate the law's outcomes. Autopsies are not required, so there's no way to ascertain the deceased was actually terminally ill, opening the door to another Dr. Kevorkian. The state's research has never reported on several prominent cases inconsistent with the law – these cases came to light only via the media. Last March, an editorial in The Oregonian complained that the law's reporting system "seems rigged to avoid finding" the answers.

We must **separate** our private wishes for what we each may hope to have available for ourselves someday and, rather, focus on the significant dangers of legalizing assisted suicide in this society as it operates today. This column is sure to bring howls from those already ideologically supportive of legalization, but anyone who wants to look deeper, beyond the simplistic mantras of choice and "right to die," are encouraged to read other articles and testimony.



## *Assisted Suicide Proposal is Dangerous Prescription*

*"As one of countless disabled people who have survived a terminal prediction based on a faulty diagnosis, I can't help but become concerned when the accuracy of a terminal prognosis determines whether someone gets suicide assistance rather than suicide prevention."*

*-Diane Coleman, J.D.,  
MBA, President and CEO of Not Dead Yet*

*[Source: NJ.com, "Opinion: N.J. Assisted Suicide Proposal is Dangerous Prescription," 8/10/2013*



## Assisted Suicide Drives Decisions Based on Cost

### ***INSURANCE COMPANY OFFERS 'DEATH DRUGS' AS ALTERNATIVE TO CANCER TREATMENT***

“The news from Barbara Wagner’s doctor was bad, but the rejection letter from her insurance company was crushing.

“The 64-year-old Oregon woman, whose lung cancer had been in remission, learned the disease had returned and would likely kill her. Her last hope was a \$4,000-a-month drug that her doctor prescribed her, but the insurance company refused to pay.

“What the Oregon Plan did agree to cover, however, were drugs for a physician-assisted death. Those drugs would cost about \$50.”

“‘It was horrible,’ Wagner told ABCNews.com. ‘I got a letter in the mail that basically said if you want to take the pills, we will help you get that from the doctor and we will stand there and watch you die. But we won’t give you the medication to live.’”

*[Source: ABC News: Death Drugs Cause Uproar in Oregon, 8/6/08]*

# WHO'S REALLY HURT BY ASSISTED SUICIDE?



November 4, 2014

By Diane Coleman, President and CEO of Not Dead Yet, a national grassroots disability rights group.

A beautiful 29-year-old woman with a rare brain tumor, Brittany Maynard and her tragic death have sparked the on-again, off-again debate about whether assisted suicide should be legalized in this country.

health care system that's poorly designed to meet dying patient's needs is dangerous to the thousands of people whose health care costs the most -- mainly people living with a disability, the elderly and chronically ill.

The media frenzy over the Maynard story has made it almost impossible for a legitimate opposing view to be heard, and many people believe that any opposition has to come from religious extremists or right-wing busybodies.

I am neither. As a disability rights advocate for over 40 years as well as a person living with a disability, I am deeply troubled about the Maynard media swarm.

*Assisted suicide ultimately affects everyone's health care. In Oregon, where assisted suicide is legal and where Maynard moved to be prescribed the lethal dose, patients have been harmed.*

Assisted suicide drugs cost less than \$300. Compare that with the cost of treating a terminal illness. This is one of the many reasons every major disability rights organization in the country that has taken a position on assisted suicide is opposed to legalization, along with the American Medical Association, palliative care specialists and hospice workers who know better than anyone that advancements in palliative care have eliminated pain as an issue for patients who receive appropriate care.

Assisted suicide legalization isn't about Brittany Maynard. It's about the thousands of vulnerable ill, elderly and disabled people who will be harmed if assisted suicide is legalized.

Anyone dying in discomfort may legally today, in all 50 states, receive palliative sedation, wherein the patient is sedated and discomfort is relieved while the dying process takes place peacefully. This legal solution does not raise the very serious difficulties that legalizing assisted suicide poses.

A recent report from the Institute of Medicine calls the country's system of caring for terminally ill people "largely broken," "poorly designed to meet the needs of patients" and refers to Medicare and Medicaid, health care systems designed to meet the needs of the poorest among us, "in need of major reorientation and restructuring." The idea of mixing a cost-cutting "treatment" such as assisted suicide into a broken, cost-conscious

Assisted suicide ultimately affects everyone's health care. In Oregon, where assisted suicide is legal and where Maynard moved to be prescribed the lethal dose, patients have been harmed.

In 2008, cancer patient Barbara Wagner was prescribed a chemotherapy treatment by her doctor, but Oregon's state-run health plan sent a letter which denied coverage of this chemo, yet offered to cover other "treatments," including assisted suicide.

The same scenario happened to another Oregon resident, Randy Stroup. The Oregon assisted suicide reports tell us that over 95% of those who supposedly received lethal prescriptions in Oregon had insurance, but how many got a denial like the one sent to Wagner and Stroup? When assisted suicide is encouraged, it becomes a covered "treatment" and ultimately removes choices from patients.

Assisted suicide's supposed "safeguards" are hollow. Nothing in the Oregon, Washington and Vermont laws prevents an heir or caregiver from suggesting assisted suicide as an option, taking the person to the doctor to sign up and witnessing the consent form. Once the prescription is obtained, with no further witness required, nothing in the law ensures the person's consent or self-administration at the time of death.

With the rising tide of elder abuse in this country, we can't ignore the dangers of granting blanket legal immunity to all the participants in an assisted suicide.

When voters are given all the facts surrounding assisted suicide, they reject bills to legalize it. This was the case in Massachusetts when Question 2, which would have legalized assisted suicide in the Bay State, was on the ballot in 2012 but was defeated.

In 2014, bills again in Massachusetts, Connecticut and New Hampshire failed because of lack of support in the legislature.

Brittany Maynard's story is incredibly heart-wrenching. When you look at assisted suicide based on one individual, it often looks acceptable. But when you examine how legalization affects the vast majority of us -- especially those most vulnerable -- the dangers to the many far outweigh any alleged benefits to a few.

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*-Diane Coleman, J.D., MBA, President and CEO of Not Dead Yet, CNN Opinion, 11/4/2014, drawing from the writings of Margaret Dore, e.g., “What Do We Advise Our Clients?,” King County Bar Association Bulletin, May 2009.*

# WHO'S BEHIND ASSISTED SUICIDE LAWS?

## *Pro-Assisted Suicide Society Started Out Advocating for Euthanasia*

Compassion & Choices is a well-known assisted suicide advocacy group. Over the years, through various mergers and splits with other groups, the organization that began as the Hemlock Society morphed into Compassion & Choices. Formed in 1980, the Hemlock Society was notorious for its open-faced advocacy for active euthanasia, including lethal injections, even for persons living with disabilities and for those who were not diagnosed as terminally ill.

Such advocacy finds its fullest expression in statements like this, from former Hemlock Society president Faye Girsh: "A judicial determination should be made when it is necessary to hasten the death of an individual, whether it be a demented parent, a suffering, severely disabled spouse or a child." (PR Newswire, 12/3/97)

Compassion & Choices has been heavily involved in assisted suicide legalization efforts across the country, including efforts in Oregon, Washington and Massachusetts.

Today, Compassion & Choices also promotes the voluntarily stopping of eating and drinking (VSED) for people who are not terminally ill.

The current CEO of the organization, Barbara Coombs Lee, is a former executive for the HMO known as Ethix Corporation, which was later purchased by New York Life Insurance Company. This is no accident as one of the primary reasons

*"Overall, 65% of the readers thought that physician-assisted suicide should not be permitted; the rate among U.S. voters was similar, with 67% voting against physician-assisted suicide."*

*-New England Journal of Medicine Survey*

*[Source; Physician Assisted Suicide-Poll Results, 9/ 12/13]*

for opposition to assisted suicide by disability rights

organizations is the volatility that is introduced when profit-driven corporations are given sway over end-of-life care. Coombs Lee actually helped draft the Oregon assisted suicide law (Marilyn Golden, "Why Progressives Should Oppose Assisted Suicide," Fall 2006).

Compassion & Choices is the primary group behind assisted suicide in the United States; a group that originally started out advocating for active euthanasia.

*"A judicial determination should be made when it is necessary to hasten the death of an individual, whether it be a demented parent, a suffering, severely disabled spouse, or a child."*

*-Faye Girsh, former Hemlock Society President*

*[Source: PR Newswire,*

# SEN. TED KENNEDY'S WIDOW, VICTORIA KENNEDY, EXPLAINS HER OPPOSITION TO AN ASSISTED SUICIDE LAW

[\*Massachusetts Ballot Question 2 was a 2012 initiative to legalize assisted suicide in Massachusetts. It failed with the help of widespread opposition from progressive organizations and leaders.]

CAPE COD TIMES

October 27<sup>th</sup>, 2012

By Victoria Reggie Kennedy, widow of Sen. Edward M. Kennedy

There is nothing more personal or private than the end of a family member's life, and I totally respect the view that everyone else should just get out of the way. I wish we could leave it that way. Unfortunately, Question 2, the so-called "Death with Dignity" initiative, forces that issue into the public square and places the government squarely in the middle of a private family matter. I do not judge nor intend to preach to others about decisions they make at the end of life, but I believe we're all entitled to know the facts about the law we're being asked to enact.

Here's the truth. The language of the proposed law is not about bringing family together to make end of life decisions; it's intended to exclude family members from the actual decision-making process to guard against patients being pressured to end their lives prematurely. It's not about doctors administering drugs such as morphine to ease patients' suffering; it's about the oral ingestion of up to 100 capsules without requirement or expectation that a doctor be present. It's not about giving choice and self-determination to patients with degenerative diseases like ALS or Alzheimer's; those patients are unlikely to qualify under the statute. It's not, in my judgment, about death with dignity at all.

My late husband Sen. Edward Kennedy called quality, affordable health care for all the cause of his life. Question 2 turns his vision of health care for all on its head by asking us to endorse patient suicide — not patient care — as our public policy for dealing with pain and the financial burdens of care at the end of life. We're better than that. We should expand palliative care, pain management, nursing care and hospice, not trade the dignity and life of a human being for the bottom line.

Most of us wish for a good and happy death, with as little pain as possible, surrounded by loved ones, perhaps with a doctor and/or clergyman at our bedside. But under Question 2, what you get instead is a prescription for up to 100 capsules, dispensed by a pharmacist, taken without medical supervision, followed by death, perhaps alone. That seems harsh and extreme to me.

Question 2 is supposed to apply to those with a life expectancy of six months or less. But even doctors admit that's unknowable. When my husband was first diagnosed with cancer, he was told that he had

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only two to four months to live, that he'd never go back to the U.S. Senate, that he should get his affairs in order, kiss his wife, love his family and get ready to die.

But that prognosis was wrong. Teddy lived 15 more productive months. During that time, he cast a key vote in the Senate that protected payments to doctors under Medicare; made a speech at the Democratic Convention; saw the candidate he supported elected president of the United States and even attended his inauguration; received an honorary degree; chaired confirmation hearings in the Senate; worked on the reform of health care; threw out the first pitch on opening day for the Red Sox; introduced the president when he signed the bipartisan Edward M. Kennedy Serve America Act; sailed his boat; and finished his memoir "True Compass," while also getting his affairs in order, kissing his wife, loving his family and preparing for the end of life.

Because that first dire prediction of life expectancy was wrong, I have 15 months of cherished memories — memories of family dinners and songfests with our children and grandchildren; memories of laughter and, yes, tears; memories of life that neither I nor my husband would have traded for anything in the world.

When the end finally did come — natural death with dignity — my husband was home, attended by his doctor, surrounded by family and our priest.

I know we were blessed. I am fully aware that not everyone will have the same experience we did. But if Question 2 passes I can't help but feel we're sending the message that they're not even entitled to a chance. A chance to have more time with their loved ones. A chance to have more dinners and sing more songs. A chance for more kisses and more love. A chance to be surrounded by family or clergy or a doctor when the end does come. That seems cruel to me. And lonely. And sad.

My husband used to paraphrase H.L. Mencken: for every complex problem, there's a simple easy answer. And it's wrong.

That's how I feel in this case. And that's why I'm going to vote no on Question 2.

*Victoria Reggie Kennedy is an attorney, health care advocate and widow of Sen. Edward M. Kennedy.*

But if Question 2 passes we're sending the message that they're not even entitled to a chance. A chance to have more time with their loved ones. A chance to have more dinners and sing more songs. A chance for more kisses and more love.

*"It's not, in my judgment, about death with dignity at all."*

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# THE DANGER OF ASSISTED SUICIDE LAWS

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October 14, 2014

By Marilyn Golden

Senior Policy Analyst, Disability Rights Education & Defense Fund

My heart goes out to Brittany Maynard, who is dying of brain cancer and who wrote last week about her desire for what is often referred to as "death with dignity."

Yet while I have every sympathy for her situation, it is important to remember that for every case such as this, there are hundreds -- or thousands -- more people who could be significantly harmed if assisted suicide is legal.

The legalization of assisted suicide always appears acceptable when the focus is solely on an individual. But it is important to remember that doing so would have repercussions across all of society, and would put many people at risk of immense harm. After all, not every terminal prognosis is correct, and not everyone has a loving husband, family or support system.

As an advocate working on behalf of disability rights for 37 years, and as someone who uses a wheelchair, I am all too familiar with the explicit and implicit pressures faced by people living with chronic or serious disability or disease. But the reality is that legalizing assisted suicide is a deadly mix with the broken, profit-driven health care system we have in the United States.

At less than \$300, assisted suicide is, to put it bluntly, the cheapest treatment for a terminal illness. This means that in places where assisted suicide is legal, coercion is not even necessary. If life-sustaining expensive treatment is denied or even merely delayed, patients will be steered toward assisted suicide, where it is legal.

This problem applies to government-funded health care as well.

In 2008, came the story that Barbara Wagner, a Springfield, Oregon, woman diagnosed with lung cancer and prescribed a chemotherapy drug by her personal physician, had reportedly received a letter from the Oregon Health Plan stating that her chemotherapy treatment would not be covered. She said she was told that instead, they would pay for, among other things, her assisted suicide.

"To say to someone: "We'll pay for you to die, but not for you to live" -- it's cruel," she said.

Another Oregon resident, 53-year-old Randy Stroup, was diagnosed with prostate cancer. Like Wagner, Stroup was reportedly denied approval of his prescribed chemotherapy treatment and instead offered coverage for assisted suicide.

Meanwhile, where assisted suicide is legal, an heir or abusive caregiver may steer someone towards assisted suicide, witness the request, pick up the lethal dose, and even give the drug -- no witnesses are required at the death, so who would know? This can occur despite the fact that diagnoses of terminal illness are often wrong, leading people to give up on treatment and lose good years of their lives. True, "safeguards" have been put in place where assisted suicide is legal. But in practical terms, they provide no protection. For example, people with a history of depression and suicide attempts have received the lethal drugs. Michael Freeland of Oregon reportedly had a 40-year history of significant depression, yet he received lethal drugs in Oregon.

These risks are simply not worth the price of assisted suicide.

Available data suggests that pain is rarely the reason why people choose assisted suicide. Instead, most people do so because they fear burdening their families or becoming disabled or dependent.

Anyone dying in discomfort that is not otherwise relievable, may legally today, in all 50 states, receive palliative sedation, wherein the patient is sedated to the point at which the discomfort is relieved while the dying process takes place peacefully. This means that today there is a legal solution to painful and uncomfortable deaths, one that does not raise the very serious problems of legalizing assisted suicide.

The debate about assisted suicide is not new, but voters and elected officials grow very wary of it when they learn the facts. Just this year alone, assisted suicide bills were rejected in Massachusetts, New Hampshire, and Connecticut, and stalled in New Jersey, due to bipartisan, grassroots opposition from a broad coalition of groups spanning the political spectrum from left to right, including disability rights organizations, medical professionals and associations, palliative care specialists, hospice workers and faith-based organizations.

Assisted suicide is a unique issue that breaks down ideological boundaries and requires us to consider those potentially most vulnerable in our society.

All this means that we should, as a society, strive for better options to address the fear and uncertainty articulated by Brittany Maynard. But if assisted suicide is legal, some people's lives will be ended without their consent, through mistakes and abuse. No safeguards have ever been enacted or proposed that can properly prevent this outcome, one that can never be undone.

Ultimately, when looking at the bigger picture, and not just individual cases, one thing becomes clear: Any benefits from assisted suicide are simply not worth the real and significant risks of this dangerous public policy.

“...If assisted suicide is legal, some people's lives will be ended without their consent, through mistakes and abuse. No safeguards have ever been enacted or proposed that can properly prevent this outcome, one that can never be undone.”

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# RESOURCES

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## **Disability Rights Education & Defense Fund**

3075 Adeline Street, Suite 210  
Berkeley, CA 94703

510.644.2555

510-841-8645 fax

<http://dredf.org/public-policy/assisted-suicide/>

info@dredf.org

## **Not Dead Yet**

497 State Street  
Rochester, NY 14608  
708-420-0539  
www.NotDeadYet.org

## **Patients Rights Council**

PO Box 760 – Steubenville, OH 43952  
Phone: 740-282-3810 Toll Free: 800-958-5678  
www.PatientsRightsCouncil.org