

Testimony of Senator Richard McCormack Regarding S.74 To the Senate Health and Welfare Committee February 16,2021

Good morning Chair Lyons, members of the committee and interested parties. For the record I am State Senator Richard McCormack, representing the Windsor County Senate District which is the county plus Londonderry and Mount Holly. I served on your committee for several years and it's good to be back, if only on ZOOM. The most important and satisfying work of this committee during my tenure was passage of Vermont's Patient Choice at End of Life law, also known as Act 39. Under the leadership of then Committee Chair Claire Ayer, with substantial organized and spontaneous public support, we achieved passage into Vermont statute of the right of dying people to make their own end of life choices including the use of medication to hasten death when death is inevitable and imminent. The law includes various requirements for a patient to obtain a prescription for death hastening medication. This bill makes technical changes to that existing law.

To a great extent we modeled Vermont's law on the existing Oregon Death With Dignity Act.. That law had been working well for several years, and so provided substantial data on the effects of such a law. At the time Oregon developed its law they had no such model from which to learn. Both supporters and opponents argued from conjectures about expected benefits and feared negative consequences. What if greedy grandchildren try to rush grandma to the grave so they can inherit earlier? What if the patient is so sad over impending death that s/he isn't thinking clearly? The writers of Oregon's law responded to opponents' concerns by incorporating various safeguards into the law. Modeling our bill after the Oregon law, and confronted with similar conjectures, we included the Oregon safeguards.

But our law has now lasted several years. We know from real experience what feared problems have simply not occurred, are not actually problems. The law has been working as expected and there have been no founded reports of abuse. And so we know that the safeguards are working.. S.74 maintains strong safeguards in the law, while addressing some unnecessary and overly burdensome hurdles patients face accessing the law.

Section One removes the requirement that a request for a prescription be made in person, allowing for requests to be made via telemedicine when appropriate. This requirement has been burdensome to very sick people for whom it's difficult to go physically to a doctor's office. By removing the requirement that the patient's oral requests are made "in the physical presence" of the doctor, the law would align with best medical practice, allowing telemedicine when appropriate. Currently, Vermont is the only state in which physical visits are required for aid in dying. In all other areas of medical practice, Vermont law allows the use of telemedicine based on medical judgement and standards of appropriate practice. The bill also removes the requirement that the prescribing doctor him/herself do a physical exam, when the doctor is able to make the necessary and required determinations through telemedicine and clinical review . Telemedicine was only a theory when the Vermont law was passed. Sec. 2 clarifies liability protections.

Section One also makes a slight adjustment to the Act 39 timeline. The proposed amendment keeps the mandated 15 day waiting period but removes an unnecessary and burdensome additional 48-hour delay period after the second oral request, the last step in the process, before a prescription can be written. This additional period creates an added burden for those individuals that have already invested a significant amount of energy in the process, during a very difficult time. The total of the 15 days and the 48 hours makes Vermont's Act 39 timeline one of the longest among the 10 jurisdiction that have MAID laws. The amendment would delete the 48 hour delay.

Section Two clarifies that acting in accordance with the law would protect all parties involved in its use from claims of liability. Current law explicitly provides immunity only for doctors involved in the process. The Attorney General's Office has opined that immunity for other providers involved in Act 39, and specifically pharmacists, is implicit in the law. However, some pharmacists in Vermont are not satisfied with implicit immunity and have required doctors to sign onerous indemnification agreements prior to filling prescriptions for their patients. Other state laws covering MAID provide immunity for all persons who comply in good faith with the MAID law. This amendment makes what is implicit, explicit.

Thank you for your good work

Senator Richard McCormack

rmccormack@leg.state.vt.us

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