

Good morning Senator Lyons and members of the Senate Health and Welfare Committee

Thank you for this opportunity to address S. 74. And I also wish to thank Committee Assistant Aaron DeNamur for his help with posting of materials.

Vermont Right to Life joined with others to oppose passage of what is currently known as Act 39. Those organizations in opposition included the Vermont Alliance for Ethical Healthcare, an organization formed by Vermont health care professionals, along with some of the disability rights groups.

For those of you who may not be aware, Vermont Right to Life's purpose and mission since 1974 has always included legal protection for the unborn at risk for abortion, the newly born at risk for infanticide (especially the disabled newborn) and the terminally ill and elderly at risk of assisted suicide and euthanasia.

As a participant in the extensive debate over legalizing assisted suicide that dates back over a dozen years before ultimately passing into law 2013, I am familiar with the history. Proponents of Act 39 repeatedly assured this legislative body, the House, and this Committee, that legal safeguards were warranted and important. Yet, today the same proponents of the safeguards are requesting that this Committee strip most of them away.

Our concerns include the following:

Is this year the right timing for isolated, depressed, elderly, sick and lonely Vermonters to have fewer safeguards? Is a phone conversation with a physician enough to ascertain whether reduced financial and personal circumstances are impacting the decision to hasten the end of life - or to discover if family members are pressuring that request? Is shortening the time period required to think things over, especially during Covid, in the best interest of the patient making a request under Act 39? Patients are increasingly unable to access health care services without long delays for care – does that pressure people into decisions that they might not otherwise make – turning assisted suicide into an act of desperation rather than desire?

I have sent Committee Assistant, Aaron DeNamur, the Kate Cheney account for the Committee.

The documented story of Kate Cheney in Oregon, where assisted suicide has been legal since 1997 is a case in point. According to several sources, Kate's daughter went "doctor shopping" for a physician who would fill a prescription. Kate's own doctor declined to write the requested prescription out of his concern for her mental competence due to dementia. He then referred Kate to a psychiatrist as required by the law. Kate was accompanied to that appointment by her daughter. The psychiatrist wrote in his report that "she (Kate) did not seem to be explicitly pushing for this" and declined to authorize the lethal prescription. Eventually, a physician was found to write the prescription and Kate Cheney swallowed the lethal dose. Later, Kate's daughter told a reporter that she found the safeguards to be a "roadblock."

While VRLC vigorously opposes the underlying concept behind Act 39, the overriding concern is that Vermonters may not be making that serious decision free from coercion. As S. 74 states in (c) *No person shall be subject to civil or criminal liability or professional disciplinary action for acting in good faith compliance with the provisions of this chapter.*

Should S. 74 be enacted into law, will family members who pressure an elderly or ill person to die before their time and under duress be immune from liability?

Also, there is the most public Vermont case, to date, of Maggie Lake. She was the third person to end her life under the new law. Importantly, her sister, Katy Lesser, told Seven Days (1/28/2015) that her sister's experience led her to believe the requirements are appropriate. "The longer she (Maggie) went through that process, the more doctors, the more meetings – she became more rooted in knowing she might want to do this," Lesser said.

The Seven Days coverage also noted that not only did it take Maggie 8 hours to die after ingesting the lethal dose, the family members became distraught and worried that the dose was wrong.

In light of that account and others, I urge this committee to evaluate the available drugs currently in use under Act. 39. Dr. Diana Barnard and Dr. Jaina Clough presented at the UVM Medical Center Grand Rounds on Act 39 and their own words are cause for deep concern. I have submitted the entire transcribed presentation to the Committee Assistant and I ask that you review it. As it is 16 pages, I would like to highlight a few paragraphs of particular concern. But first it is important to note that the drugs originally expected to be used to initiate death Under Act 39 are no longer available. Instead, proponents of assisted suicide have been experimenting with various drugs and drug combinations in their attempts to find a lethal combination.

The following are noteworthy comments made at Medicine Grand Rounds held on Friday, February 28, 2020. I encourage the Committee to read the transcript in its entirety when time allows.

Titled "An Update on Act 39: Medical Aid in Dying," the presentation was an hour-long presentation by Dr. Diana Barnard and Dr. Jaina Clough.

- The presenters promoted the acceptance of lethal medication for those who are not facing the imminent end of their lives and who are not suffering uncontrollable physical pain. Instead, they said that the time may be "right" for some people when they can **"no longer walk to the bathroom."** (see page 13)
- Dr. Barnard discussed rectal administration of the lethal dose as an alternative to oral administration in patients whose rugae have been damaged by disease and/or treatment, making "it very hard to absorb" though she admitted that she personally had not used the method. (see page 15) **One question that needs to be asked is, can rectal use be self-administered?**
- The presentation revealed the experimental nature of the new techniques being used to end a person's life. Dr. Barnard bemoaned the fact that "lovely" drugs such as Secobarbital and Pentobarbital that are "very quick acting...put you into a coma, cause respiratory depression and death," **are no longer available in the US** "due to terrible things like being used in executions." (see page 14)
- Dr. Barnard also presented new and experimental protocols including a 4-drug cocktail called DDMP2, as well as G-tube insertion of the drugs and rectal insertion... Dr.

Clough said complications can arise that include regurgitation or prolonged dying. (see page 14)

Dr. Jaina Clough further adds on page 16, the following comments:

.... “because we are learning how to create sort of realistic expectations on the part of patients and families and because the drug protocols are changing – and this is still such uncertain territory – we’re all trying to evolve and adapt and create appropriate expectations but I would say that complications of... whether it’s difficulty ingesting and getting the complete dose because of dysphagia or the body not responding to the dose the way that we would anticipate because of cachexia or because they have ALS but their heart and lungs are very strong and may not be impacted by the doses, **the experience of it kinda not going as planned is really the complication that causes the greatest stress for people.**”

(Bold/emphasis added is mine)

In conclusion, in light of the experimental nature of the drugs being used currently under Act 39, VRLC does not believe that granting immunity to prescribing pharmacists is warranted, especially in light of the risks of prolonged dying and regurgitation.

Further, the potential for abuse and coercion by granting all involved immunity under S.74 raises alarming possibilities for vulnerable Vermonter.

I had the opportunity to see the testimony submitted by Dr. Margaret Daly to this Committee which can be found online – she works is an endocrinologist at the Rutland Regional Hospital – and was gratified to see that her conclusion and mine reflect the same opinion - Vermonters do not need fewer safeguards around Act 39 - but quite the opposite – we need more.

Many thanks for your time, Mary Hahn Beerworth, Vermont Right to Life Committee