THE NATIONAL CATHOLIC BIOETHICS CENTER
600 REED ROAD, SUITE 102, BROOMALL, PA 19008 (215) 877-2660 (215) 877-2688 FAX NCBCENTER.ORG

January 24, 2024

Health Finance and Policy Committee
The Minnesota House of Representatives
State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd
Saint Paul, MN 55155

Attn: Josh.Sande@house.mn.gov.

Re: HF 1930 and SF 1813: A bill for an act relating to health; establishing an end-of-life option for terminally ill adults; proposing coding for new law in Minnesota Statutes, chapter 145.

Dear Members of the Health Finance and Policy Committee:

The National Catholic Partnership on Disability (NCPD), The National Catholic Bioethics Center (NCBC), and the National Association of Catholic Nurses, USA (NACN-USA) urge the Health Finance and Policy Committee to vote to oppose the establishment of an end-of-life option for any of your residents, but especially for those with disabilities who already are subject to discrimination by a culture that often devalues their human dignity.

NCPD was established to implement the 1978 *Pastoral Statement of U.S. Catholic Bishops on Persons with Disabilities*. NCPD serves hundreds of thousands of persons with disabilities, and those who minister to them, fostering inclusion in Church and society. NACN-USA represents, at both the national and local levels, nurses involved in the direct care, and the education and administration concerning such care, to thousands of persons including those with disabilities. They know intimately the challenges, and risk related to bias, of persons with disabilities and the threat to such persons when physician assisted suicide is government sanctioned. The NCBC was established in 1972 to address the ethical issues arising in health care and the life sciences, as technological advances were outpacing the ethical analysis needed to assure the protection

of vulnerable populations. Its educational programing, leading to two graduate degrees, publications, and most importantly its consultation services attest to the fact that a utilitarian approach to persons with disabilities can lead to a denial of certain health care services, which these two legislative proposals will continue to foster. On behalf of NCBC, NCPD, and NACN-USA, and the thousands of Minnesota Catholics with disabilities and their caregivers whom we serve, from the children seeking societal inclusion to the frail elderly, we are writing in opposition to this proposal which precedent has shown only leads to further discrimination, and yes, coercion and, thus, non-consensual death to persons whom society is abandoning through such proposals.

For over seven hundred years, Anglo-American law has condemned suicide.[1] At the close of the Civil War, most states criminalized assisting a suicide.[2] Many states subsequently reaffirmed this ban. By 1997, when the U.S. Supreme Court rejected the claim that physician-assisted suicide was a constitutional right,[3] the vast majority of states made it a criminal act.[4] Nevertheless, assisted suicide has recently become controversial and, spearheaded by Compassion and Choices, the successor to the Hemlock Society, has a foothold in American law. And society is witnessing the harm it is causing.

Any law that allows the government, through legislation, to decide that some individual's lives are not eligible to its protections is discriminatory:

> Americans hold as self-evident that all men are "endowed by their Creator with certain unalienable rights; that among these [is the right to] life …; [and] that, to secure these rights, governments are instituted among men[.]"[5]

When government secures such rights for some but not others, when it relaxes laws against aiding the suicide of terminal patients but not the able-bodied, it is saying: this class deserves less care and protection; its members deserve fewer safeguards of their human rights. In other words, they deserve less respect because in some way they are less human. Even though the proposal, on its face, addresses those with terminal illness, there is a porous line separating terminal illness from disabling conditions.[6] Moreover, timeframes for predicting death for aid in dying are notoriously fallible. Further, pain and finances currently are the least frequent reason for such requests. The primary reason terminal patients give for requesting aid in dying is not pain[7] but loss of autonomy, loss of dignity, and the inability to participate in activities that make

[1] *See Washington v. Glucksberg*, 521 U.S. 702, 711 (1997).
[2] See id. at 715.
[3] See id. at 735.
[4] See id. at 718.
[5] *The declaration of Independence*, para. 2 (U.S. 1776).
[6] *See*, *e.g.*, 42 U.S.C. §§12102(1)(A) (*Americans with Disabilities Act*). As physical impairments that substantially limit life activities, terminal conditions are disabilities.
[7] Pain is not one of the top reasons for such a request. See, Oregon Health Authority, Public Health Division, Center for Health Statistics, *Oregon Death with Dignity Act 2022 Data Summary* (March 8, 2023). NB: However, everyone agrees that dying in pain is unacceptable, but nearly all pain is now treatable.

life enjoyable.[8] These are the same threats to human flourishing faced by those with disabilities, whom we serve.

Advocates of euthanasia and assisted suicide are indicating that certain lives are not worth living. Thus, the most vulnerable and marginalized persons, those facing terminal diagnoses and fearing that they will be abandoned because of the perceived loss of dignity (as the Oregon experience demonstrates) will be discriminated against if HF 1930 and SF 1813 are passed into law. Furthermore, there is growing evidence with reimbursement policies that providing the drug for enabling physician assisted suicide will be funded when treatment protocols are not.[9] In fact, data is clear that Oregon victims of physician assisted suicide often have no private health insurance or are covered only by Medicare or Medicaid.[10] They are financially vulnerable populations, who again, need our care and advocacy, not our assistance in taking their lives.

While the law protects all other persons from engaging in suicide, those with a terminal diagnosis, who by its very nature are facing a disabling condition, are deemed less worthy of such protection.[11] If such threats exist for those with terminal illness, as well as those with disabilities, society must do all it can to alleviate such threats, not eliminate the person who is the victim of those threats to human flourishing. The same societal obligations exist both for those with terminal diseases and those with disabilities.[12] Otherwise all persons are subject to a culture that sees the answer to human suffering as to eliminate the sufferer – another bias perpetrated on those with disabilities.

The implications for all persons, especially those with disabilities, whom we serve, and those who have a Hippocratic obligation to care for them, are real:

> Health care professionals may become less focused on providing care and comfort to those deemed less "worthy" of societal protections;
>
> Evidence exists of government and insurance companies denying expensive treatments, even if palliative;[13]

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[8] Oregon Health Authority, Public Health Division, Center for Health Statistics, *Oregon Death with Dignity Act 2022 Data Summary* (March 8, 2023).

[9] Bradford Richardson, Insurance companies denied treatment to patients, offered to pay for assisted suicide, doctor claims, *The Washington Times* (Wednesday, May 31, 2017). https://www.washingtontimes.com/news/2017/may/31/insurance-companies-denied-treatment-to-patients-o/.

[10] *Id.,* The percentage of patients with private insurance declined slightly from 2021 (from 22% to 20%), while patients with Medicare or Medicaid insurance saw a slight increase (from 78% to 80%).

[11] The *Americans with Disabilities Act* may apply if you have a physical or mental problem that greatly limits one or more of your usual activities. See, American Cancer Society, "Americans With Disabilities Act: Information for People Facing Cancer" (last revised, September 2023). https://www.cancer.org/cancer/financial-insurance-matters/health-insurance-laws/americans-with-disabilities-act.html.

[12] *See Glucksberg*, 521 U.S. at 730-31 ("Research indicates… that many people who request physician-assisted suicide withdraw that request if their depression and pain are treated.") (Citations omitted).

[13] *Op cit.,* Richardson.

Assisted suicide laws generally encourage or require doctors to falsify on death certificates the cause of death;

Pressures will grow to make health care providers get involved in assisting suicide directly or by referral as happened in Vermont.[14]

Oregon is proof that general suicides rise dramatically once assisted suicide is promoted as a "good."[15]

Assisted suicide is a recipe for abuse of the elderly and disabled because it can put lethal drugs in the hands of abusers.

Persons with disabilities whom we serve report that they often are discriminated against by judgments that deem them not to have a "quality of life." This is particularly true as persons age and experience increasing disability of body and cognition. This is a very dangerous labeling impacting the care and wellbeing of the human person, reported to our organizations by those we serve.

The talk about quality of life should never suggest that the life of the patient has less value. Life itself is an intrinsic good and so always possesses value. What is at issue is the condition of the patient, the state of disease, and the resources that are available to combat it, or if necessary, to continue to attenuate its effects. The problem arises when the value of the person is called into question by those who would say that life becomes diminished in value when it is not of a sufficient quality, often meaning that the patient has lost some or all of the higher cognitive abilities.

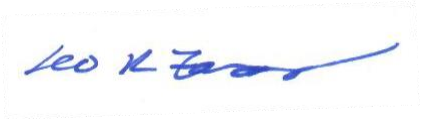
Such discriminatory processes, as fostered by these two legislative proposals, must be opposed. Again, when the government decides that some lives contemplating suicide should be saved,[16] yet others can be helped to kill themselves, there exists a discriminatory double standard.

On behalf of the thousands of persons served by the National Catholic Partnership on Disability, The National Catholic Bioethics Center, and the National Association of Catholic Nurses, USA we urge you to oppose HF 1930 and SF 1813: A bill for an act relating to health; establishing an end-of-life option for terminally ill adults; proposing coding for new law in Minnesota Statutes, chapter 145.

[14] *Vt. All. for Ethical Healthcare, Inc. v. Hoser*.
[15] Nancy Valko, Why are suicide rates climbing after years of decline? *Linacre Quarterly*. 2017 May; 84(2): 108–110.
[16] Minnesota Office of Ombudsman for Mental Health and Developmental Disabilities, *Suicide Prevention Resource List* (October 2018). Mn.gov.

We wish to thank you for providing us with this important opportunity to advocate for those we serve.

Sincerely yours,



Leo Zanchettin, Board Chair

Marie T. Hilliard, MS (Nursing), MA, JCL, PhD, RN

Board of Directors, The National Catholic Partnership on Disability
415 Michigan Avenue, N.E., Suite 95
Washington, D.C. 20017-4501, ncpd@ncpd.org. (771) 203-4477

Also, Marie T. Hilliard is Senior Fellow, The National Catholic Bioethics Center
600 Reed Road, Suite 102
Broomall, PA, 19008, INFO@NCBCENTER.ORG. (215) 877-2660

Patricia Sayers, DNP, RN
President, National Association of Catholic Nurses, USA
P.O. Box 4556
Wheaton, IL 60189, https://ncpd.org/. (630) 909-9012