April 4, 2018

Rep. Joseph M. McNamara, Chair
Members of the House Committee on Health, Education and Welfare
January Session, 2018, of the State of Rhode Island General Assembly

Re: Testimony of Bradley N. Kehr, Esq., Government Affairs Counsel, Americans United for Life, on H 7297, the Lila Manfield Sapinsley Compassionate Care Act, Regarding Physician-Assisted Suicide

Dear Chair McNamara and Honorable Members:

I am Bradley N. Kehr, Government Affairs Counsel with Americans United for Life. I appreciate the opportunity to provide written testimony on H 7297, regarding the legalization of physician-assisted suicide in Rhode Island. In my practice, I specialize in life-related legislation and am testifying as an expert in constitutional law generally and the constitutionality of end of life-related laws specifically.

I have thoroughly reviewed H 7297, and it is my opinion that H 7297 goes against the prevailing consensus that states have a duty to protect life, places already vulnerable people groups at greater risk, and fails to protect the integrity and ethics of the medical profession.

The Majority of States Affirmatively Prohibit Physician-Assisted Suicide

Currently, 42 states affirmatively prohibit assisted suicide, and impose criminal penalties on anyone who helps another person end his or her life. In *Washington v. Glucksberg*, the United States Supreme Court summed up the consensus, saying: "In almost every State—indeed, in almost every western democracy—it is a crime to assist a suicide. The States' assisted suicide bans are not innovations. Rather they are longstanding expressions of the States' commitment to the protection and preservation of all human life."[1]

This longstanding consensus among the vast majority of states is unsurprising when one considers, as the Court did, that "opposition to and condemnation of suicide—and, therefore, of assisting suicide—are consistent and enduring themes of our philosophical, legal and cultural heritages."[2]

[1] *Washington v. Glucksberg*, 521 U.S. 702, 710 (1997).
[2] *Id.*, at 711 and 723.

Indeed, more than twenty years ago, the Supreme Court held that there is no fundamental right to assisted suicide in the U.S. Constitution, finding instead that there exists for the states "an unqualified interest in the preservation of human life… in preventing suicide, and in studying, identifying, and treating its causes."[3]

Only by rejecting H 7297 can this committee further Rhode Island's important state interest in preserving human life, as well as its duty to protect the lives of her citizens, especially the lives of the most vulnerable groups in our society.

Physician-Assisted Suicide Places Already Vulnerable People Groups at Greater Risk

It is also critical to protect vulnerable groups—including the poor, the elderly, and disabled persons—from abuse, neglect, and coercion. When considering the risk posed to these vulnerable people groups, assisted suicide can be considered neither a "compassionate" nor an appropriate solution for those who may suffer at the end of life. Many in the bioethics, legal, and medical fields have raised significant questions regarding the existence of abuses and failures in jurisdictions that have approved physician-assisted suicide, including a lack of reporting and accountability, coercion, and failure to assure the competency of the requesting patient.[4] America's most vulnerable citizens, including the elderly, the terminally ill, the disabled, and the depressed, are worthy of life and equal protection under the law, and state prohibitions on assisted suicide reflect and reinforce the well-supported policy "that the lives of the terminally ill, disabled and elderly people must be no less valued than the lives of the young and healthy."[5]

Physician-Assisted Suicide Erodes the Integrity and Ethics of the Medical Profession

Prohibitions on assisted suicide also protect the integrity and ethics of the medical profession, including its obligation to serve its patients as healers, as well as to the principles articulated in the Hippocratic Oath to "keep the sick from harm and injustice" and to "refrain from giving anybody a deadly drug if asked for it, nor make a suggestion to this effect." Likewise, the American Medical Association (AMA) does not support physician-assisted suicide, even for individuals facing the end of

[3] *Glucksberg*, 521 U.S. at 729-30.
[4] J. Pereira, MBChB MSc, *Legalizing Euthanasia or Assisted Suicide: The Illusion of Safeguards and Controls*, 18(2) CURRENT ONCOLOGY (2011) (finding that "laws and safeguards are regularly ignored and transgressed in all the jurisdictions and that transgressions are not prosecuted."); *see Washington State Department of Health 2010 Death with Dignity Act Report*, available at http://www.doh.wa.gov/portals/1/Documents/5400/DWDA2010.pdf (last visited Feb. 27, 2017) (showing that in 2010, over one-fourth of patients who died after ingesting a lethal dose of medicine in Washington did so because, at least in part, they did not want to be a "burden" on family members, raising the concern that patients were pushed into suicide).
[5] *Glucksberg*, 521 U.S. at 731-32.

life. The AMA states that "allowing physicians to participate in assisted suicide would cause more harm than good. Physician-assisted suicide is fundamentally incompatible with the physician's role as healer, would be difficult or impossible to control, and would pose serious societal risks."[6]

There is also a close link between physician-assisted suicide and euthanasia where a "right to die" easily becomes a "duty to die." The prohibition of assisted suicide is the only reasonable means to protect against these foreseeable abuses.[7] Importantly, although the original stated intent of most laws in jurisdictions that allow physician-assisted suicide is to provide "a last-resort option for a very small number of terminally ill people, some jurisdictions now extend the practice to newborns, children, and people with dementia. A terminal illness is no longer a prerequisite."[8]

One only has to look to the Netherlands to see how this plays out in reality: a report commissioned by the Dutch government demonstrated that more than half of euthanasia and assisted-suicide-related deaths were involuntary in the year studied.[9] At least half of Dutch physicians actively suggest euthanasia to their patients.[10] Studies in 1997 and 2005 revealed that eight (8) percent of infants who died in the Netherlands were euthanized by doctors.[11]

The slippery slope is also manifest in Belgium. A study published in the *Canadian Medical Association Journal*[12] showed that out of 1,265 nurses questioned, 120 of them (almost 10 percent) reported that their last patient was involuntarily euthanized. Only four percent of nurses involved in involuntary euthanasia reported that the patient had ever expressed his or her wishes about euthanasia. Most of the patients euthanized without consent were over 80 years old, reaffirming the fact that assisted suicide and euthanasia quickly lead to elder abuse. The researchers acknowledged that nurses are likely reluctant to report illegal acts (here, euthanizing a patient without physician involvement)—thus, it is possible that the number of nurses killing their patients without physician involvement is much higher than revealed by the study. The researchers concluded that "[i]t seems the current law… and control system do not prevent nurses from administering life-ending drugs." In other words, the "safeguards" purported by suicide advocates simply do not work.

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[6] American Medical Association, CODE OF MEDICAL ETHICS, *Opinion 5.7 – Physician-Assisted Suicide*, available at https://www.ama-assn.org/sites/default/files/media-browser/code-of-medical-ethics-chapter-5.pdf (last visited Feb. 27, 2017).
[7] *Glucksberg*, 521 U.S. at 734-35; *Vacco v. Quill*, 521 U.S. 793, 808-09 (1997).
[8] *See* Pereira, *Legalizing Euthanasia or Assisted Suicide*, 18(2) CURRENT ONCOLOGY.
[9] *See* W.J. Smith, FORCED EXIT: THE SLIPPERY SLOPE FROM ASSISTED SUICIDE TO LEGALIZED MURDER 118-19 (2003) (citing the Dutch government's *Remmelink Report*).
[10] *See id*. at 119 (citing R. Fenigsen, *Report of the Dutch Government Committee on Euthanasia*, 7 ISSUES LAW & MED. 239 (Nov. 1991); *Special Report from the Netherlands*, N.E.J.M. 1699-711 (1996).
[11] *See id*. at 129-30 (citing A. van der Heide et al., *Medical End of life Decisions Made for Neonates and Infants in the Netherlands*, 350 LANCET 251 (1997)); A.M. Vrakking et al., *Medical End of life Decisions Made for Neonates and Infants in the Netherlands*, 1995-2001, 365 LANCET 1329 (2005).
[12] E. Inghelbrecht et al., *The role of nurses in physician-assisted deaths in Belgium*, CAN. MED. ASSN. J. (June 15, 2010).

Rhode Island should continue to uphold its duty to protect the lives of all its citizens, especially vulnerable people groups such as the ill, elderly, and disabled; and maintain the integrity and ethics of the medical profession by rejecting physician-assisted suicide, and rejecting H 7297.