



**Written Testimony of Catherine Glenn Foster, M.A., J.D.  
President & CEO, Americans United for Life  
On S.B. 1072  
Submitted to the Committee on Health, Human Services, and Senior Citizens  
February 7, 2019**

Dear Chair Vitale and Members of the Committee:

My name is Catherine Glenn Foster and I serve as President and CEO with Americans United for Life (AUL), the oldest and most active pro-life non-profit advocacy organization. Established in 1971, AUL has dedicated nearly 50 years to advocating for everyone to be welcomed in life and protected in law. In my practice, I specialize in life-related legislation and am testifying as an expert in constitutional law generally and in the constitutionality of end of life-related laws specifically. I have also written extensively on the end-of-life issue, most recently in *The Human Life Review*.<sup>1</sup> I appreciate the opportunity to provide written testimony against S.B. 1072, which would legalize physician-assisted suicide in New Jersey.

I have thoroughly reviewed S.B. 1072, and it is my opinion that S.B. 1072 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, over 40 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 of the states: “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.”<sup>2</sup>

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.”<sup>3</sup> Indeed,

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<sup>1</sup> Catherine Glenn Foster, *The Fatal Flaws of Assisted Suicide*, 44 HUMAN LIFE REV. 51 (2018).

<sup>2</sup> 521 U.S. 702, 710 (1997).

<sup>3</sup> *Id.* at 711.

over twenty years ago, the Court in *Glucksberg* held there is no fundamental right to assisted suicide in the U.S. Constitution, and instead found 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.”<sup>4</sup>

Only by rejecting S.B. 1072 can this Committee further New Jersey’s important state interest in preserving human life and advance the State’s duty to protect the lives of its citizens, especially the lives of the most vulnerable groups in society.

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

It is critical for New Jersey to protect potentially vulnerable groups—including the poor, the elderly, and disabled persons—from abuse, neglect, and coercion. When considering the risks posed by assisted suicide to all of us, especially these vulnerable people groups, the availability of 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, which includes a lack of reporting and accountability, coercion, and failure to assure the competency of the requesting patient.<sup>5</sup> Even the most vulnerable among, such as the poor, 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.”<sup>6</sup>

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

Prohibitions on physician-assisted suicide also protect the integrity and ethics of the medical profession, including its obligation to serve its patients as healers, as well as 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.”<sup>7</sup> Likewise, the American Medical Association (AMA) does not support physician-assisted suicide, even for individuals facing the end of their life. The AMA states that “permitting physicians to engage in assisted suicide would ultimately

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<sup>4</sup> *Id.* at 729–30.

<sup>5</sup> J. Pereira, *Legalizing Euthanasia or Assisted Suicide: The Illusion of Safeguards and Controls*, 18 CURRENT ONCOLOGY e38 (2011) (finding that “laws and safeguards are regularly ignored and transgressed in all the jurisdictions and that transgressions are not prosecuted”); see also WASH. STATE DEP’T OF HEALTH, WASHINGTON STATE DEATH WITH DIGNITY ACT REPORT (2018), <https://www.doh.wa.gov/Portals/1/Documents/Pubs/422-109-DeathWithDignityAct2017.pdf> (In 2017, 56% of patients who died after ingesting a lethal dose of medicine in Washington did so, at least in part, because they did not want to be a “burden” on family members, raising the concern that patients were pushed to suicide.).

<sup>6</sup> *Glucksberg*, 521 U.S. at 731–32.

<sup>7</sup> The Supreme Court has recognized the enduring value of the Hippocratic Oath: “[The Hippocratic Oath] represents the apex of the development of strict ethical concepts in medicine, and its influence endures to this day. . . . [W]ith the end of antiquity . . . [t]he Oath ‘became the nucleus of all medical ethics’ and ‘was applauded as the embodiment of truth’” *Roe v. Wade*, 410 U.S. 113, 131–32 (1973).

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."<sup>8</sup> In fact, the AMA emphasizes that physicians must "aggressively respond to the needs of the patients" and "respect patient autonomy [and] provide appropriate comfort care and adequate pain control."<sup>9</sup>

There is also a thin line between physician-assisted suicide and euthanasia where the "right to die" can quickly become the "duty to die." As the New Jersey legislature noted, the "great majority of patients who requested medication" to end their life were in hospice care.<sup>10</sup> The prohibition of assisted suicide is the only reasonable means to protect against this foreseeable abuse.<sup>11</sup> Importantly, although the original stated intent in most jurisdictions with physician-assisted suicide laws 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."<sup>12</sup>

### ***"Safeguards" Do Not Always Work***

Despite the so-called "safeguards," opening the door for physician-assisted suicide also opens the door to real abuse. For example, S.B. 1072 requires that there are two witnesses to the request for life-ending medication, but only one must be a disinterested party, at least in theory. There is no requirement that the second witness be completely disinterested, meaning an heir and her best friend would satisfy the two-witness requirement, easily circumventing the alleged safeguard designed to protect the patient from pressure, coercion, or abuse.

One need only look to the Netherlands and Belgium to see how this plays out. A report commissioned by the Dutch government demonstrated that more than half of assisted-suicide and euthanasia related deaths were involuntary in the year studied.<sup>13</sup> At least half of Dutch physicians actively suggest euthanasia to their patients.<sup>14</sup> Additionally, another study showed that out of 1,265 nurses questioned, 120 of them (almost 10 percent) reported that their last patient was involuntarily euthanized.<sup>15</sup> But 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.

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<sup>8</sup>AMA CODE OF MEDICAL ETHICS OP. 5.7 (Physician-Assisted Suicide), <https://www.ama-assn.org/sites/default/files/media-browser/code-of-medical-ethics-chapter-5.pdf>.

<sup>9</sup> *Id.*

<sup>10</sup> S.B. 1072, 218th Leg. (N.J. 2018).

<sup>11</sup> *Glucksberg*, 521 U.S. at 734–35; *Vacco v. Quill*, 521 U.S. 793, 808–09 (1997).

<sup>12</sup> *See Pereira*, *supra* note 4.

<sup>13</sup>*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* documenting euthanasia results in the Netherlands).

<sup>14</sup> *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)).

<sup>15</sup> E. Inghelbrecht et al., *The Role of Nurses in Physician-Assisted Deaths in Belgium*, CAN. MED. ASSN. J. (June 15, 2010).

In conclusion, New Jersey should reject physician-assisted suicide and 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 S.B. 1072.

Sincerely,

A handwritten signature in black ink, appearing to read "Catherine". The signature is fluid and cursive, with a large initial "C" and a trailing flourish.

Catherine Glenn Foster  
President & CEO  
Americans United for Life