
Suicide Coercion Prevention Act

Model Legislation & Policy Guide



*Advancing the Human Right to Life
in Culture, Law, and Policy*

INTRODUCTION

The United States has a robust public policy of suicide prevention. The Centers for Disease Control and Prevention recognizes that “[s]uicide is a serious public health problem that can have lasting harmful effects on individuals, families, and communities.”¹ Nevertheless, nine states² plus the District of Columbia have carved out homicide exceptions to criminal, civil, and professional liability for suicide assistance. The Montana Supreme Court additionally has allowed physicians to raise a “consent” defense to homicide charges.³

Suicide assistance is no longer contained to these jurisdictions. In March 2022, Oregon officials settled a lawsuit, agreeing not to enforce its state residency requirements.⁴ This means that Oregon is open for suicide tourism by out-of-state residents. There also are concerns about the use of telemedicine. Starting in 2022, Vermont permits the use of telemedicine for suicide assistance. Vermont also is undergoing litigation against its state residency requirements.⁵ If a court blocks the residency requirements or if state officials agree to not enforce them, then this would permit telemedical suicide tourism.

Assisted suicide and euthanasia directly threaten human dignity. Scholarship shows that legalization of these practices increases the rates of non-assisted suicide.⁶ The statutory “safeguards” cannot protect vulnerable patients from coercion and discrimination. The *Suicide Coercion Prevention Act* bolsters pro-life states’ public policy of suicide prevention and limits the spread of suicide assistance. The model bill includes the following provisions.

Unworthy Heir Doctrine

One of the underlying principles of inheritance law is testamentary freedom. Testamentary freedom dictates “that an individual has the right and the freedom to dispose of his or her property, upon death, according to the dictates of his or her own desires.”⁷ Generally, courts recognize testamentary freedom within wills, and try to effectuate the testator’s intent. Conversely, if an individual dies intestate, *i.e.*, without a will, then state statutes direct intestate succession, instructing on which family members receive the decedent’s property. However, testamentary freedom and intestacy presumptions look at status, not behavior. These pose issues if an individual is poised to inherit from a decedent but abused or even killed the decedent.

¹ *Suicide Prevention*, Ctrs. for Disease Control & Prevention (Oct. 19, 2022), <https://www.cdc.gov/suicide/index.html>.

² These states are California, Colorado, Hawaii, Maine, New Jersey, New Mexico, Oregon, Vermont, and Washington.

³ *Baxter v. State*, 224 P.3d 1211 (Mont. 2009).

⁴ *Gideonse v. Brown*, No. 3:21-cv-1568 (D. Or. dismissed Mar. 28, 2022).

⁵ *Bluestein v. Scott*, No. 2:22-cv-160 (D. Vt. filed Aug. 25, 2022).

⁶ David Albert Jones, *Suicide Prevention: Does Legalising Assisted Suicide Make Things Better or Worse?*, The Anscombe Bioethics Ctr. 1, 2 (2022) <https://bioethics.org.uk/media/mhrka5f3/suicide-prevention-does-legalising-assisted-suicide-make-things-better-or-worse-prof-david-albert-jones.pdf>.

⁷ *In re Estate of Malloy*, 949 P.2d 804, 806 (Wash. 1998) (citations omitted).

Consequently, states have carved out exceptions that “disinherit” unworthy heirs. Unworthy heirs are “heirs whose conduct is deemed so ‘reprehensible’ that they are disqualified from inheritance.”⁸ Under the unworthy heir doctrine, the guiding maxim for disinheritance statutes is that “[n]o one shall be permitted to profit by his own fraud, or to take advantage of his own wrong, or to found any claim upon his own iniquity, or to acquire property by his own crime.”⁹ Notably, “[t]hese maxims are dictated by public policy, have their foundation in universal law administered in all civilized countries, and have nowhere been superseded by statutes.”¹⁰

“Slayer statutes” are best-known example of the unworthy heir doctrine. These statutes extinguish the inheritance rights of a killer who otherwise would inherit from his victim. However, states have extended the unworthy heir doctrine to other areas, including adultery, spousal abandonment, child abandonment, and abuse of the decedent.

The *Suicide Coercion Prevention Act* recognizes that the unworthy heir doctrine extends to individuals who have assisted a suicide or performed euthanasia. Accordingly, a killer may not inherit from the decedent, nor may the killer maintain a wrongful death action for the death of the decedent.

Although suicide assistance is legal in some jurisdictions, this cannot be a defense to the *Suicide Coercion Prevention Act*. Under conflicts of law, states cannot apply the criminal laws of another state. Suicide assistance laws have carved out exceptions for homicide laws, but these are criminal law exemptions of the anti-life state and can’t be applied as a defense to a pro-life state’s unworthy heir statute.

Insurance Protections for Patients

The *Suicide Coercion Prevention Act* restricts qualified health plans that are created in a State from covering suicide assistance or euthanasia. Although the Affordable Care Act requires coverage of prescription drugs as an essential health benefit for patients,¹¹ this requirement does not extend to suicide drugs. Insurance companies commonly place dosage restrictions on prescription drugs to prevent drug misuse and overdose. Suicide doctors are prescribing these drugs at lethal dosages, which goes against the U.S. Food and Drug Administration’s (FDA) drug guidelines. Similarly, suicide doctors frequently combine drugs in experimental drug cocktails.¹² As the FDA recognizes, “[c]ompounded drugs are not FDA-approved. This means that FDA does not review these drugs to evaluate their safety, effectiveness, or quality before they reach patients.”¹³ Due to the lethal dosages and experimental nature of the drug cocktails, it has been the decision of private insurers whether to cover suicide assistance

⁸ Frances H. Foster, *The Family Paradigm of Inheritance Law*, 80 N.C. L. Rev. 199, 230 (2001).

⁹ *Riggs v. Palmer*, 115 N.Y. 506, 511 (N.Y. 1889).

¹⁰ *Id.* at 511–512.

¹¹ 42 U.S.C. § 18022(b)(1)(F).

¹² See, e.g., Or. Pub. Health Div., *Oregon Death with Dignity Act: 2021 Data Summary 4* (2022).

¹³ *Compounding Laws and Policies*, U.S. Food & Drug Admin. (Sept. 10, 2020),

<https://www.fda.gov/drugs/human-drug-compounding/compounding-laws-and-policies>.

drugs. A State can use its health and safety powers to restrict medical insurance coverage of lethal drugs.

Suicide assistance poses a rising threat to vulnerable patients, even patients that reside in pro-life states. Under the *Suicide Coercion Prevention Act*, qualified health plans could not provide out-of-network coverage for vulnerable patients to travel to states that permit suicide tourism, such as Oregon. The *Suicide Coercion Prevention Act* also proactively protects vulnerable patients from the threat of telemedical suicide assistance.

Professional Sanctions

Anti-life states that permit suicide assistance exempt persons assisting a suicide from civil or criminal liability, or professional discipline.¹⁴ This is especially concerning for the integrity of the medical profession. Physicians have a role as healers in society, but physician-assisted suicide and euthanasia subvert this role. Since a medical degree is a privilege, not a right, states have wide latitude to regulate the medical profession to safeguard human life. State medical boards can discipline medical professionals for unprofessional conduct, regardless of whether the unprofessional conduct occurs within the state.

The *Suicide Coercion Prevention Act* considers suicide assistance and euthanasia to be unprofessional conduct for medical professionals. Accordingly, a state board of medicine can discipline medical professionals for assisting a suicide or performing euthanasia, even revoking or denying that professional's medical license.

Construction

Some states that permit suicide assistance have gone a step farther and created the legal fiction that state law must consider assisted suicide to be a natural death. California law, for example, indicates that “[n]otwithstanding any other law, a qualified individual’s act of self-administering an aid-in-dying drug shall not have an effect upon a life, health, or annuity policy other than that of a natural death from the underlying disease.”¹⁵

The *Suicide Coercion Prevention Act* clarifies that a pro-life state’s laws do not recognize the legal fiction that suicide assistance or euthanasia are merely a “natural death.” This allows for the pro-life state’s probate, wrongful death, and insurance laws to treat suicide assistance accordingly.

Even if a party introduces a death certificate that was issued in an anti-life state, and this certificate lists suicide assistance as a “natural death,” death certificates are evidentiary, not legal conclusions under a state’s laws. Under the *Suicide Coercion Prevention Act*, an opposing party can treat the death certificate as rebuttable evidence and prove that a decedent died from suicide assistance or euthanasia.

¹⁴ See, e.g., Or. Rev. Stat. § 127.885(1) to (2) (2003).

¹⁵ Cal. Health & Safety Code § 443.13(b) (2015).

To assist in combating the rising threat of medicalized suicide or any form of euthanasia, Americans United for Life (AUL) has developed the *Suicide Coercion Prevention Act*. For more information or drafting assistance, please contact AUL at Legislation@aul.org.

SUICIDE COERCION PREVENTION ACT

HOUSE/SENATE BILL No. _____
By Representatives/Senators _____

Section 1. Title.

This Act may be known and cited as the “Suicide Coercion Prevention Act.”

Section 2. Legislative Findings and Purpose.

(a) The [*Legislature*] of the State of [*Insert name of State*] finds that:

- (1) Physician-assisted suicide and euthanasia take a human life and are not healthcare.
- (2) Suicide assistance and euthanasia create a two-tiered system in which the young and abled receive suicide prevention, but the elderly and persons with illnesses or disabilities earn suicide assistance.
- (3) No suicide assistance or euthanasia safeguards may sufficiently prevent coercion and discrimination when the primary and intentional objective of the practice is death.
- (4) United States jurisdictions that have legalized suicide assistance inadequately safeguard patients from coercion and abuse:
 - a. Suicide doctors use drugs at lethal dosages that are not FDA-approved.
 - b. Often suicide doctors mix drugs into experimental compounds that are not FDA-approved, and do not have the FDA’s assurances of the safety, quality, and effectiveness of the drugs.
 - c. Medical professionals experiment with suicide drugs directly on patients without previous clinical drug trials, nor oversight by an institutional review board for the protection of human subjects.
 - d. The laws do not protect patients from financial or emotional pressures to commit suicide.
 - e. These jurisdictions only oversee suicide doctors through the doctor’s self-reporting.
 - f. There is inadequate counseling for depression and mental health before patients receive lethal drugs.

- g. Suicide assistance involves doctor shopping, and the suicide patient-physician relationship has a median duration of five (5) weeks.
 - h. Suicide laws do not require doctors to be present when the patient self-administers the lethal drugs.
 - i. Laws do not require both witnesses to a patient's lethal drug requests to be impartial or preclude both witnesses from benefitting from the patient's will or life insurance policy.
 - j. There are no requirements on who may be present when the patient self-administers the lethal drug cocktail.
 - k. Some insurance companies have denied coverage of life-extending medical treatment but offered to cover suicide assistance drugs.
 - l. "Terminal illness" is an imprecise term and medical professionals may make mistakes in diagnosis and prognosis of a patient's illness.
 - m. Suicide activists are pushing to lift protections for vulnerable patients, and have tragically diminished reflection periods, in-person informed consent and drug dispensing requirements, and residency safeguards.
- (5) Oregon officials agreed not to enforce its residency requirements under its suicide assistance statute, opening the state for suicide tourism by out-of-state residents.
 - (6) Suicide tourism threatens the human dignity and lives of vulnerable residents of the State of *[Insert name of State]*.
 - (7) Although some states have carved out exceptions to their criminal, civil, and regulatory laws for a medical professional to assist a suicide under narrow circumstances, no such exception exists in the State of *[Insert name of State]*.
 - (8) Suicide assistance and euthanasia are homicide, and subject to criminal prosecution, civil lawsuits, and regulatory discipline under the laws of the State of *[Insert name of State]*.
 - (9) The Supreme Court recognized that suicide assistance is not a fundamental right under the United States Constitution. *Washington v. Glucksberg*, 521 U.S. 702 (1997); *Vacco v. Quill*, 521 U.S. 793 (1997).
 - (10) No state has recognized suicide assistance or euthanasia as a fundamental right under a state constitution.
 - (11) The Centers for Disease Control and Prevention recognizes that suicide is a serious public health problem.

- (12) Legalization of physician-assisted suicide and euthanasia increase the rates of non-assisted suicide.
 - (13) Suicide assistance and euthanasia subvert the public policy of the State of *[Insert name of State]* to prevent suicide and protect vulnerable patients from discrimination and coercion.
- (b) Based on the findings in subsection (a), it is the purpose of this Act to:
- (1) Strengthen the State of *[Insert name of State]*'s public policy stance of suicide prevention.
 - (2) Safeguard the residents of the State of *[Insert name of State]* from the coercive and discriminatory nature of suicide tourism.
 - (3) Preserve the integrity of the medical profession as healers that safeguard human life.

Section 3. Definitions.

- (a) **“Euthanasia”** means the intentional killing of a person for reasons of, but not limited to, the person’s following conditions, regardless of whether such condition is physical, mental, or emotional: age; anguish; depression; disability; disease; illness; injury; or quality of life.
- (b) **“Healthcare professional”** means a person licensed to practice medicine in the State of *[Insert name of State]*, and includes, but is not limited to, the following: a physician; physician’s assistant; nurse; nurses’ aide; medical assistant; hospital employee; clinic employee; nursing home employee; pharmacist; pharmacy employee; researcher; medical or nursing school faculty member, student, or employee; counselor; social worker; or any professional, paraprofessional, or any other person who furnishes or assists in the furnishing of healthcare services.
- (c) **“Person”** means any natural person and, when appropriate, an **“organization”** to include:
 - (1) A public or private corporation, company, association, firm, partnership, or joint-stock company;
 - (2) Government or a governmental instrumentality; or
 - (3) A foundation, institution, society, union, club, or church.
- (d) **“Suicide”** means the act or instance of taking one’s own life voluntarily and intentionally.
- (e) **“Suicide assistance”** means the act or instance of a person intentionally providing the means or manner for another person to be able to commit suicide.

Section 4. Unworthy Heir Doctrine.

- (a) A person who feloniously assists a suicide of or euthanizes a decedent is deemed to have predeceased a decedent, and the decedent's estate passes according to *[Insert State's slayer statute code]*.
- (b) A person who feloniously assists a suicide of or euthanizes a decedent is not entitled to bring an action for wrongful death of the decedent or to benefit from the action brought by the decedent's personal representative. The persons who may bring an action for wrongful death of the decedent and to benefit from the action are determined as if the person who performed suicide assistance or euthanasia had predeceased the decedent.
- (c) A wrongful acquisition of property or interest by a killer not covered by this section must be treated in accordance with the principle that an individual who assists a suicide or performs euthanasia cannot profit from his or her wrong.

Section 5. Insurance and Health Benefit Plans.

No suicide assistance nor euthanasia coverage may be provided by a life, health, or annuity policy, health care service plan contract, or health benefit plan established within the State of *[Insert name of State]*.

Section 6. Professional Discipline.

Any healthcare professional who provides suicide assistance or euthanasia shall be considered to have engaged in unprofessional conduct for which his or her *[certificate or]* license to provide healthcare services in the State of *[Insert name of State]* shall be suspended or revoked by the *[Insert name of state medical board or other appropriate entity]*. Any person's application for a *[certificate or]* license to provide healthcare services in the State of *[Insert name of State]* shall be denied if that person provides suicide assistance or euthanasia.

Section 7. Construction.

- (a) Notwithstanding that some States have created a legal fiction that suicide assistance shall be considered as a death resulting from a decedent's underlying disease, for purposes of the laws of the State of *[Insert name of State]*, death resulting from suicide assistance or euthanasia shall be considered, respectively, as death by suicide assistance or euthanasia.
- (b) Nothing in this Act shall be construed to prohibit a healthcare professional or healthcare entity from:
 - (1) Participating in the execution of a person sentenced by a court to death by lethal injection.

- (2) Following a patient's clear, expressed, and documented wishes to withhold or withdraw life-sustaining treatment [*not necessarily inclusive of withdrawing artificial nutrition and hydration*].
- (3) Prescribing and administering palliative care or pain medication treatment options intended to relieve pain while the patient's illness or condition follows its natural course.

Section 8. Right of Intervention.

The [*Legislature*], by joint resolution, may appoint one or more of its members, who sponsored or cosponsored this Act in his or her official capacity, to intervene as a matter of right in any case in which the constitutionality of this Act, or any portion thereof, is challenged.

Section 9. Severability.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable herefrom and shall not affect the remainder hereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

Section 10. Effective Date.

This Act takes effect on [*Insert date*].

For further information regarding this or other AUL policy guides, please contact:

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