PERSPECTIVES OF AN ESTATE PLANNING AND PROBATE LAWYER

ON PROPOSED OPTIONS IN DYING ACT HB 1054

Mr. Chairman and Distinguished Members of the Committee:

As a practicing lawyer for 38 years, specializing in estate planning, probate, and guardians and conservatorships for incapacitated adults, I am personally familiar with the people, families and situations to which the so-called End of Life Options Act would apply. The Act gives me grave concerns based upon its potential for abuse, and in particular the absence of any meaningful safeguards that would prevent it from becoming a simple warrant for the quick extermination of what the law declares to be unvalued lives.

Specifically, I have grave concerns that, wholly apart from the profound moral and ethical implications of such an Act, there are concrete legal deficiencies which would place no practical constraints on the practice. Let me be specific:

1. **The procedural "protections" will not work, and on the assumption of competent draftsmanship, one must assume that they are not intended to work.**

    a. **No requirement that two witnesses be neutral; protections less than for an advance medical directive; see §15-18-105, 106 C.R.S.**

    b. **Witnesses do not need to know the patient. In practice law firms will simply use their own staff, who are unlikely to refuse to witness a document drafted by their boss.**

    c. **Witnesses need not have any objective, independent knowledge of the state of mind, history, medical condition, prognosis, treatment alternatives, mental health or circumstances of the patient.**

    d. **"Decisional capacity" defined elsewhere in the Probate Code is replaced by the word "capable" which means nothing more than the capability to announce a decision.**

    e. **No requirement for independent witnessing of the patient's death. The unrestrained opportunity for somebody other than the patient to procure and administer the lethal dose makes this a bill a warrant for euthanasia.**

f. **Requirement for physician to advise patient of the assisted suicide option at the same time as the terminal diagnosis interferes with doctor-patient relationship takes advantage of the patient at his/her most vulnerable.**

g. **No documentation or reporting is required, no agency appointed to ensure that even limited protections are actually honored.**

h. **No cooling off period between the written request and provision of lethal drugs;**

i. **Good faith exception for anyone in the process along with no requirement for documentation means that undue influence, abuse, or short-cuts will never be detected, much less prosecuted;**

j. **Requiring the falsification of medical and legal records effectively precludes any meaningful review of the law or of the processes;**

k. **Bill would invite boutique assisted suicide legal and medical practices;**

When we tell our most vulnerable citizens that their life is less worthwhile, less valuable to us, we don't give them autonomy, we as a State tell them that we see their life as just another commodity, and that, all things considered, we are well rid of them. Implicitly, this communicates that they are offered not a choice, but an obligation.

Respectfully submitted,

Chester H. Morgan, II
Morgan Legal Offices, P.C.
13008 N. Cascade Ave. Colorado Springs, CO 80903
www.skipmorganlaw.com
Voice: 719 473 1986
Fax: 719 473 7084
Chmorgan2d@skipmorganlaw.com