The LWVMD Death with Dignity Concurrence

At the June 2017 state convention, LWVMD delegates voted on a study of Death with Dignity. While gathering information, the state study committee found that the state League in Utah had already completed a study, leading to consensus, and that LWVNY has concurred with that consensus. With the agreement of the LWVMD board, local Maryland LWV members are now being asked whether we can concur with the Utah League's positions. LWVMC members will discuss this issue at our December discussion group meetings.

REFERENCES

Below are some references and brief background materials – along with the positions we will consider. For more details, go to https://www.lwvmd.org/fact_sheets - where you can find the 19-page Fact Sheet at https://d3n8a8pro7vhmx.cloudfront.net/lwvmaryland/pages/127/attachments/original/1539723865/DWD_Study_Fact_Sheet_2018_FINAL.pdf?1539723865 , along with extensive background materials at https://drive.google.com/drive/folders/1okQctR0Fjn6HWG4sCrWTgSnT5QgA8QmH (and other useful links as well).

CONCURRENCE POSITION

We are being asked whether we concur (vote yes or no) with the LWV of Utah position as written. If League members decide "yes", then we will then have the following LWVMD position:

1. LWVMD believes state laws should grant the option for a terminally ill person to request medical assistance from a relevant, licensed physician to end one's life.
2. LWVMD believes such legislation should include safeguards against abuse for the dying and/or medical personnel.

BRIEF BACKGROUND

Death with Dignity (DWD) refers to laws that allow a terminally ill, mentally competent adult with a prognosis of six months or less to live to request a prescription for a lethal medication which can be self-ingested at the time of their own choosing to bring about a peaceful death. Currently six states and DC have DWD laws. Most state laws provide that two doctors must confirm the terminal diagnosis and prognosis and that the person requesting the prescription make multiple requests, is fully informed and making the choice of his or her own volition. The doctors must also provide the requesting person with information about additional end-of-life options, including palliative and hospice care.

Participation in Death with Dignity is completely voluntary for patients, doctors and pharmacists. No patient is required to apply for it and no doctor or pharmacist is mandated to provide it. Forcing someone to use DWD is illegal and subject to criminal prosecution. The DWD laws only offer an additional option to terminally ill patients. If individuals do not want to avail themselves of it, they do not have to. Where legal, it is a choice that people must make for themselves.

History

1980 - Hemlock Society founded by Derek Humphrey, who had helped his wife dying from breast cancer take her own life. **1994** - Oregon became the first State in the union to legalize medical aid in dying. **1997** - The U.S. Supreme Court unanimously held that a right to assisted suicide in the United States was not protected by the Due Process Clause (Washington v. Glucksberg). **2006** - U.S. Supreme Court upholds Oregon law by 6 to 3 margin. **2018** - As of April 2018, six states and the District of Columbia have adopted Death with Dignity-like statutes: California (2015), Colorado (2015), District of Columbia (2016), Hawaii (2018), Oregon (1997), Vermont (2013), and Washington state (2008). In Montana, DWD is legal by State Supreme Court ruling (2009).

History in Maryland

1987 - Lawmakers considered HB 948 (introduced by Delegate Judy Toth) to outlaw assisting suicide, but the bill was defeated. **1995** - The *Terminal Illness-Physician Aid In Dying* Bill (HB 933) was introduced in the General Assembly by Delegate Dana Dembrow. A hearing was held, but the bill ultimately was rejected in committee. **1999** - Two Assisted Suicide Prohibition Bills were considered (HB 496 / SB 319). HB 496 passed the House by a vote of 78-54 and the Senate by a vote of 27-20. It was signed into law by Governor Parris N. Glendening (D). **2015** - The *Richard E. Israel and Roger "Pip" Moyer Death with Dignity Act* first introduced in the Senate (SB 676) and House of Delegates (HB 1021). Hearings were held, bill was withdrawn by sponsors. **2016** - Bill was introduced (HB 404 / SB 418) and withdrawn by sponsors after hearings. **2017** - Bill was introduced (HB 370 / SB 354) and withdrawn by sponsors after the House hearing. [No bill was introduced in 2018 because of it being an election year.]

POSITIVE ASPECTS OF DWD

(1) Patient dignity and autonomy, control over remaining life. (2) Relief from suffering. (3) DWD laws have many safeguards. (4) Overall healthcare financial burden on family reduced. (5) Patients may arrange goodbyes. (6) If planned, organs may be harvested and donated. (7) Improved care at the end of life resulting from discussion of all options. (8) Reduces stress on dying patients. (9) Helps family and caregivers prepare for a terminally ill person's death. (10) Improved physician palliative care training. (11) Better care at the end of life.

NEGATIVE ASPECTS OF DWD

(1) Insurance interference with end of life choices e.g., lethal prescription cheaper than care. (2) Miracles are possible. (3) Death by drugs inexact science. (4) Coercion by family or others, elder or disabled person abuse. (5) Eliminating the disabled or disadvantaged. (6) Other end of life alternatives such as hospice or palliative care. (7) Physicians as gatekeepers. (8) Slippery slope, guidelines will loosen over time; (9) Religious opposition.

TYPICAL SAFEGUARDS

(1) Physician meets alone with patient. (2) 15-day cooling off period; (3) Consultation with a second physician. (4) Two witnesses, one of whom cannot be an heir or relative. (5) Obtain a mental health evaluation if there is concern about the patient's capacity. (6) . Availability of an interpreter.

WHAT DWD IS NOT

(1) Death with Dignity is not suicide. The people who opt to use DWD laws want desperately to continue to live but do not have that option available. Death is unquestionably imminent for them, potentially with a lot of pain, discomfort, lack of dignity and loss of quality of life. (2) Death with Dignity is not euthanasia. Euthanasia is defined as "the painless killing of a patient suffering from an incurable and painful disease or an irreversible coma." It is an intentional act by which another person chooses and acts to cause death and is illegal throughout the United States. Individuals qualifying and opting for DWD must self-ingest the requested medication; no one can administer the medication to him or her. Forcing someone to use DWD by administering the drug is illegal and subject to criminal prosecution. All DWD laws expressly prohibit euthanasia.

OTHER NON-VIOLENT END-OF-LIFE OPTIONS

Terminally ill patients have options other than DWD while they are awaiting death (usually in hospice): (1) Palliative care utilizes medication and other modalities to control symptoms while keeping patients conscious and comfortable during the progression of their disease. For those who consider DWD, this treatment is insufficient. They are still suffering physically and/or existentially. (2) Palliative sedation utilizes medication to keep terminally ill patients comfortable via unconscious sedation during the progression of their disease. Those who consider DWD do not wish to end their lives by being in a coma for an indeterminate amount of time. (3) Any individual may shorten his or her dying process by Voluntarily Stopping Eating and Drinking (VSED). By intentionally refusing to eat or drink, death will take place between 7 and 21 days. Patients opting for VSED often also utilize palliative care to keep them comfortable during this very difficult and drawn-out process. For those wanting DWD this is an unacceptable option. (4) Patients always have the right to refuse medical treatment, including those that sustain life (i.e. ventilators, feeding tubes, pacemakers). Depending on the immediate outcome of the treatment refused, patients could end up using one of the options above.

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