

Medical Aid in Dying Six Variations among U.S. State Laws

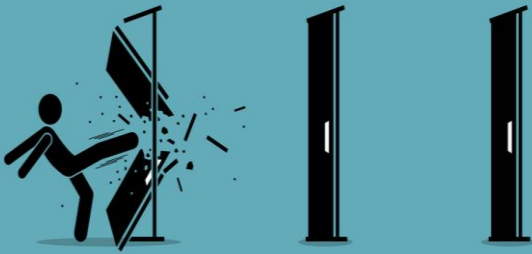
Thaddeus Mason Pope
National Clinicians Conference on
Medical Aid In Dying (Berkeley, CA)
February 14-15, 2020

1

Law

2

Law is only **one** barrier to MAID access – but a big one



3

10

 jurisdictions permit MAID

4



5

BUT

not exactly

6

Variations

from state to state

7

6 variations

8

Variation 1

3rd capacity assessment
contingent v. mandatory ?

9

2 assessments

10

sometimes **3**

11

need not be a physician

LCSW

Psychologist

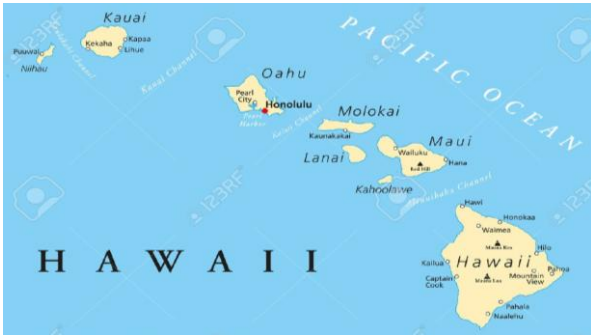
12

rare

13

BUT

14



15

HI

always 3

assessments by 3 clinicians

16

HI

“The attending provider shall refer the patient for counseling.”

17

HI

Not contingent

on capacity doubts, concerns

18

HI
Every
patient

19

HI
Always
gets 3rd screening

20

Variation 1

21

Variation 2
Oral request wait time
0 v. 15 v. 20 days ?

22

most laws require the patient to make
2 oral requests
separated by
15+ days

23

BUT

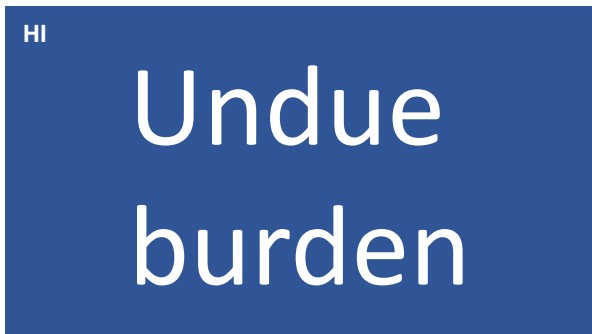
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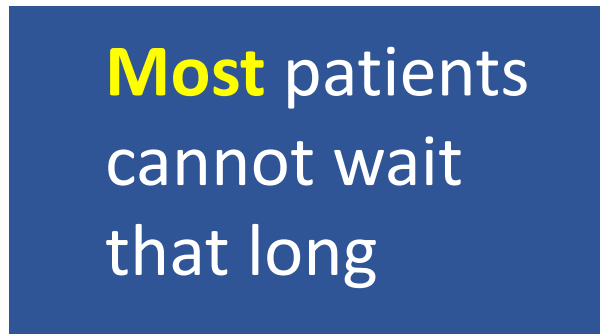
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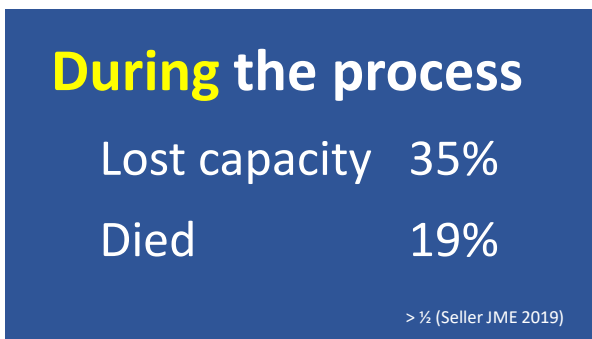
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28



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30



31

January 2020						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

32

Waive
wait period

33

“death is likely to occur **before** ... expiry of the time period”

34

REPORT TO THE THIRTIETH LEGISLATURE
STATE OF HAWAII
2020

PURSUANT TO ACT 2 SESSION LAWS OF HAWAII 2019
(HB2739 H.D. 1)

Prepared by the Department of Health Office
of Planning, Policy, and Program Development
December 2019

35

OR 0 d
most 15 d
HI 20 d

36

Variation 2

37

Variation 3

Written request wait
yes v. no ?

38

no wait period

39



40

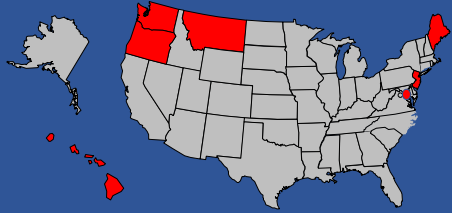
48hr wait period

41

“no less than **48 hours**
shall elapse between . .
. **written** request and . .
. prescription”

42

6 states



43

Not consequential - can run concurrently

15 days →

48 hours →

44

BUT

45



Vermont

46

48hr **consecutive**
to oral request
wait period

47

^{VT} “prescription no fewer
than 48 hours **after the
last to occur** . . . written
request . . . second
oral request”

48

VT

15+2

49

Variation 3

50

Variation 4

Must the patient
ingest or take drug?

51

Route of drug administration

52

Every state requires

Patient must
take the final
overt act

53

but state laws use different

verbs

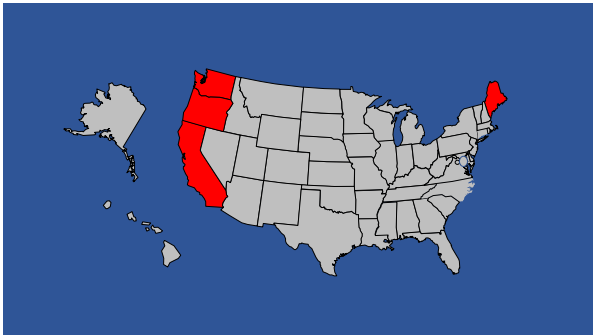
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ingest
administer
take

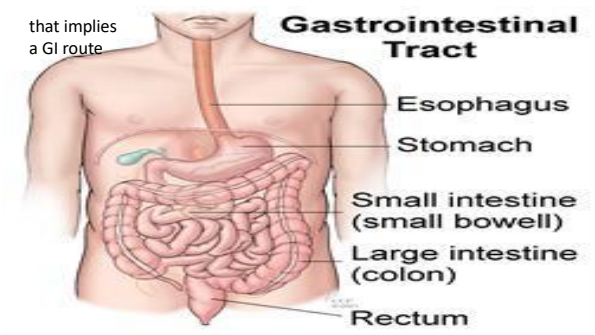
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4 states use
Ingest

56



57



58



59



60



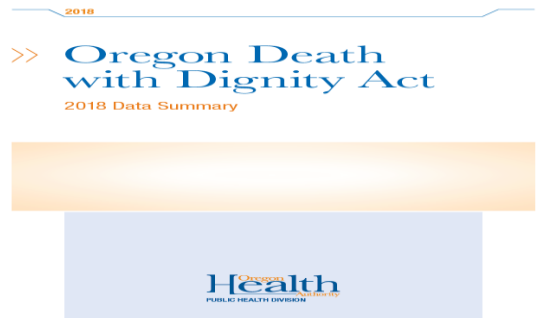
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62

Cannot swallow
 Poor absorption
 Obstruction
 Uncontrolled vomiting

63



64

Complications ^a	(N=1,459)
Difficulty ingesting/regurgitated	28
Seizures	2
Other	11
None	650
Unknown	768
Other outcomes	
Regained consciousness after ingesting DWDA medications	8

7%

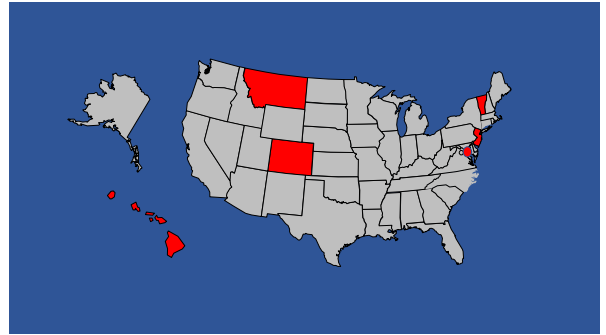
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Remaining states

67



68

use term

take

69



70



71

“Nothing in [EOLOA] shall . . . authorize a physician . . . to end a patient’s life by **lethal injection** . . .”

72

Variation 4

73

Variation 5

What duties when
clinician **opts out** ?

74

voluntary
participation

75

may assert

CBO

76

No duty

Participate
Inform
Refer

77

BUT

78

Must send
Pt records

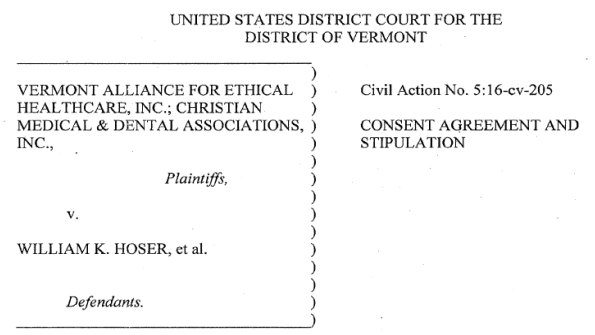
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80

VT
Must do
more

81



82

VT
inform
or
refer

83

Variation 5

84

Variation 6

What duties when
facility opts out ?

85

Table. Hospital Participation in the EOLOA

JAMA Internal Medicine July 2019 Volume 179 Number 7 965

Characteristic	Permits EOLOA, No. (%) (n = 106)	Does Not Permit EOLOA, No. (%) (n = 164)
Religious affiliation	2 (2)	70 (43)
Teaching hospital	22 (21)	6 (4)

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What about
individual
physicians?

87

Traditional
rule

88

OFF DUTY



89

BUT

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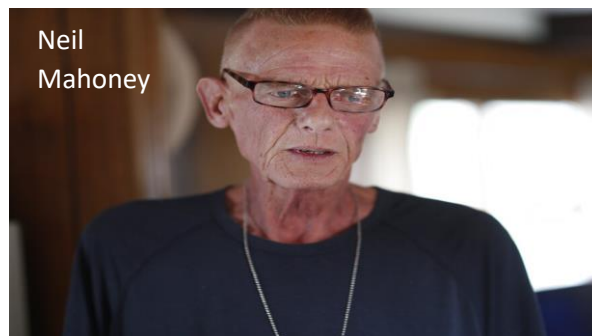
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DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO 7325 S. Potomac Street, Centennial, Colorado 80112	
Plaintiff:	BARBARA MORRIS, MD
v.	
Defendants:	CENTURA HEALTH CORPORATION, a Colorado non-profit corporation, and CATHOLIC HEALTH INITIATIVES COLORADO d/b/a CENTURA HEALTH-ST. ANTHONY HOSPITAL, a Colorado non-profit corporation,

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Materials discussed in this
 presentation are available at
<http://thaddeuspope.com>

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Medical Futility Blog

Since 2007, I have been blogging, almost daily, to medicalfutility.blogspot.com. This blog focuses on reporting and discussing legislative, judicial, regulatory, medical, and other developments concerning end-of-life medical treatment conflicts. The blog has received **over 4 million** direct visits. Plus, it is redistributed through WestlawNext, Bioethics.net, and others.

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