

# Gay and Lesbian Activists Alliance

*Fighting for equality since 1971*

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## Testimony on Death with Dignity Act, Bill 21-38

Before the Committee on Health and Human Services

July 10, 2015

Chairperson Alexander, Committee Members, and Fellow Citizens:

Good Morning. I am Rick Rosendall, president of the Gay and Lesbian Activists Alliance, the oldest continuously active LGBT rights organization in the United States. With me is former GLAA president Craig Howell; we are both District natives and residents. GLAA supports the Death with Dignity Act of 2015, Bill 21-38. We thank Councilmember Cheh for introducing it.<sup>1</sup>

End-of-life issues have confronted us since AIDS first devastated our community in the 1980s. Those of us who survived have awful memories of partners, friends, family members and colleagues who suffered agonizing, wasting deaths, robbed of dignity. Some were driven to suicide, unassisted by doctors or others. Some could only wish for deliverance from pointless suffering. Our legal and medical systems only compounded the ordeal.

Stories of unrelieved and unredeemed suffering by terminal patients continue to arise. WAMU radio host Diane Rehm told of how her husband of 54 years deliberately starved himself to death over a ten-day period last June to end his suffering from Parkinson's Disease.<sup>2</sup>

A similar story out of California has given fresh impetus to a nationwide movement to alleviate this intolerable state of affairs through legislation similar to Bill 21-38. 29-year-old Brittany Maynard ended her life on November 1, 2014 after her brain cancer had progressed to stage four. She and her husband moved to Oregon to take advantage of its death with dignity law, enabling her to end her life on her own terms and schedule with lethal drugs prescribed by her physician. Her account of her decision caused a surge of public interest here and abroad in the right to die.<sup>3</sup> Reform legislation has been introduced in more than twenty states.

In February, Canada's Supreme Court struck down the national ban on helping patients die as a violation of constitutional guarantees of life, liberty and personal security; the high court gave Parliament one year to enact appropriate regulations to protect both patients and physicians.<sup>4</sup> The provincial legislature in heavily Catholic Quebec passed death with dignity legislation by lopsided margins last June. Physician assistance for the dying is now allowed in such traditionally Catholic countries as Argentina, Spain, Colombia, and Belgium.

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<sup>1</sup> Death with Dignity Act of 2015, Bill 21-38, <http://tinyurl.com/l7m8lov>

<sup>2</sup> "Diane Rehm tackles right-to-die topic on show after coming out in support," Michael S. Rosenwald, *The Washington Post*, February 17, 2015, <http://tinyurl.com/naztslx>

<sup>3</sup> "Why Newlywed Brittany Maynard Is Ending Her Life in Three Weeks," Bill Briggs, *NBC News*, October 9, 2014, <http://tinyurl.com/knyvzja>

<sup>4</sup> "Canada Court Strikes Down Ban on Aiding Patient Suicide," Ian Austen, *The New York Times*, February 6, 2015, <http://tinyurl.com/p3uk8vc>

Polls have demonstrated majority approval of right-to-die laws since the 1970s; that trend is growing. This spring Britain's *Economist* newspaper commissioned a poll of 15 countries on this topic, including eleven European nations plus the USA, Canada, Australia, and Japan. In all except Poland and Russia, majorities support allowing doctors to prescribe lethal medication for terminally ill adults. "In America more than three-fifths support the idea in principle.... In all but four countries more than half of those asked supported extending doctor-assisted dying to other situations, such as unbearable physical suffering."<sup>5</sup> In endorsing Bill 21-38, the *Washington Post* observes that "a recent Gallup poll showed nearly seven in 10 Americans agree that terminally ill adults should have the right to medical assistance in bringing about a peaceful death."<sup>6</sup>

Bill 21-38 is modeled after Oregon's landmark law, authorized by referendum in 1994 and in effect since 1997. According to Compassion and Choices, the nation's leading organization lobbying for death with dignity legislation, "one of the leading catalysts" behind the Oregon law was "people dying from AIDS who wanted an option to control their suffering at the end of life." Experience there, as in Vermont, Washington State, and Montana, should alleviate fears of coercion or other abuses. The Oregon law has been used sparingly, with about one in 500 deaths. The *Post* writes, "There have been no reports of coerced or wrongly qualified assisted deaths. The typical patient is about 71, suffering from terminal cancer, well-educated, with health insurance and enrolled in hospice. About one-third of prescriptions were never used, suggesting some terminally ill people are comforted by knowing they have an alternative to extensive suffering should they need it."

Bill 21-38 contains appropriate safeguards. The *Post* notes, "Two physicians would have to consent to dispensing the life-ending drugs after certifying the patient's terminal prognosis and mental competency."<sup>7</sup> We suggest broadening its coverage to protect not only those with less than six months to live but also those afflicted with severe physical suffering that cannot be alleviated. We also suggest that the attending physician be authorized to administer the lethal medications directly when the dying patient is physically unable. *The Economist* writes, "To the patient the moral distinction between taking a pill and asking for an injection is slight. But the practical consequences of this stricture is to prevent those who are incapacitated from being granted help to die."

Last fall, Marcia Angell, senior lecturer in social medicine at Harvard Medical School and a former editor-in-chief of the *New England Journal of Medicine*, wrote in the *Post* after witnessing the death of her husband in a hospice: "[P]eople are increasingly asking why anyone – the state, the medical profession, religious leaders – would presume to tell someone else that they must continue to die by inches, against their will.... We give patients the right to hasten their deaths by refusing dialysis, mechanical ventilation, antibiotics or any other life-sustaining treatment. Why deny them what is essentially the same choice, especially since it is limited to terminally ill patients?"<sup>8</sup>

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<sup>5</sup> "The Right to Die," Editorial, *The Economist*, June 27, 2015, <http://tinyurl.com/nf25yc4>

<sup>6</sup> "A humane way to end life," Editorial, *The Washington Post*, June 23, 2015, <http://tinyurl.com/o9et7gr>

<sup>7</sup> "'Death With Dignity' laws are proposed, bringing national debate to D.C. and Md.," Mike DeBonis, *The Washington Post*, January 16, 2015, <http://tinyurl.com/nc3tekv>

<sup>8</sup> "The Brittany Maynard effect: How she is changing the debate on assisted dying," Marcia Angell, *The Washington Post*, October 31, 2014, <http://tinyurl.com/qagnc9q>

*Compassion & Choices Magazine* reports that "a clear majority of American physicians now supports the option to choose death with dignity. According to a *Medscape* survey posed to 21,000 doctors, 54% believe that if a 'disease is incurable and terminal' that a patient – or they themselves – should be able to access aid in dying. 'It represents a remarkable shift,' said renowned bioethicist Dr. Arthur Caplan."<sup>9</sup>

*The Humanist* magazine reported last December that Archbishop Emeritus of Cape Town Desmond Tutu publicly "declared himself in favor of assisted dying should he ever find himself terminally ill or in a situation of unbearable suffering."<sup>10</sup> Stephen Hawking, probably the most famous differently-abled person in the world, has said he too might one day want to exercise his right to die: "To keep someone alive against their wishes is the ultimate indignity."<sup>11</sup>

The openly gay retired Episcopal bishop of New Hampshire, Gene Robinson (now living in D.C.), writes, "There is nothing innately good about allowing 'nature' to take its course in a prolonged and painful journey to an inevitable death. It doesn't make you a better person because you endured the indignity and trauma of it."<sup>12</sup>

Contrary to Cardinal Donald W. Wuerl, this legislation is not based on a "eugenic philosophy" [See Footnote 7] but on compassion and respect. We urge its passage, with the changes recommended. I will be happy to answer any questions you may have.

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<sup>9</sup> "Post-Brittany Maynard Poll: Most U.S. Doctors Now Support Aid in Dying," Sean Crowley, *Compassion & Choices*, December 17, 2014, <http://tinyurl.com/q4s5p8y>

<sup>10</sup> "Is Dying a Pro-Choice Issue?" Tone Stockenström, *The Humanist*, December 22, 2014, <http://tinyurl.com/p6hdxag>

<sup>11</sup> "Why Stephen Hawking says he'd consider assisted suicide," Abby Phillip, *The Washington Post*, June 4, 2015, <http://tinyurl.com/ntyxtfw>

<sup>12</sup> "The Right to Die," Gene Robinson, *Newsroom.me*, October 12, 2014, <http://www.newsroom.me/News/NewsFrame/60924508>