Maine Medical Association

**TESTIMONY OF THE MAINE MEDICAL ASSOCIATION**

**NEITHER FOR NOR AGAINST**

**L.D. 347, AN ACT TO SUPPORT DEATH WITH DIGNITY**

**AND**

**L.D. 1066, AN ACT TO PROMOTE LIFE WITH DIGNITY**

Joint Standing Committee on Health & Human Services
Room 209, Cross State Office Building
Wednesday, April 5, 2017, 9:30 a.m.

Good morning Senator Brakey, Representative Hymanson, and Members of the Joint Standing Committee on Health & Human Services. My name is Gordon Smith and I serve as Executive Vice President of the Maine Medical Association. I am here today to testify "neither for nor against" L.D. 347, *An Act to Support Death with Dignity* and L.D. 1066, *An Act to Promote Life with Dignity*.

The Maine Medical Association is a professional organization representing more than 4000 physicians, residents, and medical students in Maine whose mission is to support Maine physicians, advance the quality of medicine in Maine, and promote the health of all Maine citizens.

The question whether physicians should be permitted to assist a patient in ending his or her life at a time and place of his or her choosing poses ethical challenges for us as a society and for the physician community as a component of our society. I am testifying "neither for nor against" these bills today because a forum on the topic at our office on Tuesday, March 28th and a SurveyMonkey poll of our membership conducted between Friday, March 31st and Tuesday, April 4th suggest that physician opinion on this topic is evenly divided – and this division undoubtedly reflects our broader society. We have decided the MMA Board of Directors should review the Association's current position in

opposition to assisted death at its next regular meeting scheduled for Wednesday, April 26, 2017.

I want to thank the prime sponsors of the two bills, Senator Roger Katz (R-Kennebec) and Representative Jennifer Parker (D-South Berwick) for their passionate interest in this topic and patient self-determination. In addition to Senator Katz and Representative Parker, Representative Hymanson and several other legislators participated in our recent forum and contributed to the discussion.

The ethical dilemma for physicians presented by "assisted death" has its roots in the Hippocratic Oath which includes the caution known by all of us as patients – "First, do no harm." The long-standing ethical principle on this topic is Opinion 5.7, *Physician-Assisted Suicide* of the AMA's **Code of Medical Ethics** and I have attached this Opinion to my testimony. No national or state physician organization in this country has issued a policy statement in favor of assisted death although some have dropped their opposition. The MMA's standing policy statement in opposition to assisted death is a Resolution passed by the MMA House of Delegates at its Annual Session on September 9, 2000 prior to Question 1 on the November 7, 2000 ballot. Maine voters narrowly defeated this assisted death ballot initiative. I also have attached this Resolution to my testimony.

The rationale underlying physician organization's traditional opposition to assisted death initiatives is a strong belief in the value of hospice and palliative care to dying patients and their families. During the late 1990s, the AMA, recognizing the need for more education of physicians about compassionate end-of-life care, developed a curriculum called, "Educating Physicians on End-of-Life Care" or EPEC. While the State of Maine has made progress in improving access to hospice and palliative care since that time, we still need to do more. Physicians also accept that the concept of "double effect" is an acceptable component of compassionate end-of-life care. This concept means that proper pain control at the end of life may also have the effect of hastening the patient's death. Against this rationale for our traditional position is a patient empowerment movement that has been growing for nearly two decades, with support from the medical community. Within this movement is increasing advocacy for patient autonomy and self-determination in one's time of death. But, as powerful as this movement is, there are legitimate concerns within the disability advocacy community that also need to be taken into consideration.

The MMA Board of Directors will consider both perspectives on assisted death and will attempt to resolve the ethical dilemma. We will participate in your work sessions on these bills and will keep you informed of the results of our discussions on the topic. Thank you for considering my testimony and I would be happy to respond to any questions you may have.

(d) Obtain the informed consent of the patient (or authorized surrogate when the patient lacks decision-making capacity).
(e) Discuss with the patient (or surrogate) the plan of care relative to:
  (i) degree and length of sedation;
  (ii) specific expectations for continuing, withdrawing, or withholding future life-sustaining treatments.
(f) Monitor care once palliative sedation to unconsciousness is initiated.

Physicians may offer palliative sedation to unconsciousness to address refractory clinical symptoms, not to respond to existential suffering arising from such issues as death anxiety, isolation, or loss of control. Existential suffering should be addressed through appropriate social, psychological, or spiritual support.

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*AMA Principles of Medical Ethics: I, IV*

**Issued:** 1994

**Opinions on Related Matters:**
**1.1.1** Patient-Physician Relationships
**1.1.7** Physician Exercise of Conscience
**2.1.1** Informed Consent
**2.1.2** Decisions for Adult Patients Who Lack Capacity
**5.6** Sedation to Unconsciousness in End-of-Life Care
**5.8** Euthanasia

## 5.7 Physician-Assisted Suicide

Physician-assisted suicide occurs when a physician facilitates a patient's death by providing the necessary means and/or information to enable the patient to perform the life-ending act (eg, the physician provides sleeping pills and information about the lethal dose, while aware that the patient may commit suicide).

It is understandable, though tragic, that some patients in extreme duress—such as those suffering from a terminal, painful, debilitating illness—may come to decide that death is preferable to life. However, permitting physicians to engage in assisted suicide would ultimately cause more harm than good.

Physician-assisted suicide is fundamentally incompatible with the physician's role as healer, would be difficult or impossible to control, and would pose serious societal risks.

Instead of engaging in assisted suicide, physicians must aggressively respond to the needs of patients at the end of life. Physicians:

(a) Should not abandon a patient once it is determined that cure is impossible.
(b) Must respect patient autonomy.
(c) Must provide good communication and emotional support.
(d) Must provide appropriate comfort care and adequate pain control.

2000 MMA Resolution

Physician Assisted Suicide

Approved by the House of Delegates

September 9, 2000

Introduced by Laurel Coleman, M.D.

THEREFORE BE IT RESOLVED that the Maine Medical Association, through its House of Delegates, reaffirm its opposition to physician-assisted suicide and specifically to question one on the November 7th ballot, and

THEREFORE BE IT FURTHER RESOLVED that the Maine Medical Association strongly supports compassionate and pain-free end of life care. (2000)