

MAID State Differences Present and Future Legal Considerations

Thaddeus Mason Pope, JD, PhD
National Clinicians Conference on
Medical Aid In Dying (Feb. 17, 2023)

1

National **Clinicians** Conference on Medical Aid in Dying

2

Law

3

law is only one barrier to MAID access -- but a big one

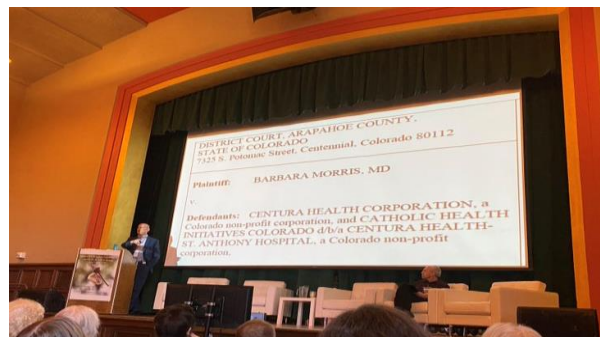


4

FEBRUARY 2020

S	M	T	W	T	F	S
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2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22

5



6



7



8



9



10



11



12

11 jurisdictions permit MAID

13



14

but
not exactly

15

variations
from state to state

16



17

1997

18



19



20

“no”

21



22

focus on rights
at **state** level

23



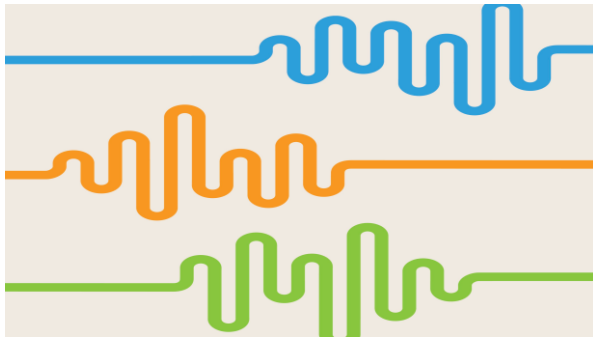
24

“entrusted to ...
laboratory of
the **states**”

25



26



27

9 variations

28

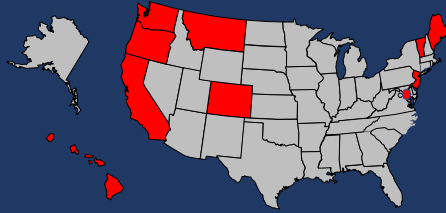
variation **1**

29

who can
prescribe

30

10 states



31

physicians
only

32

MD *or* DO

33

but

34



35

also
APRN *or* PA

36



37

bills in MAID states

HI WA

H.B. 487, 1823
S.B. 839

S.B. 5179
H.B. 1141

38

bills in new states

DE IN VA

H.B. 1011

S.B. 930

39

Congratulations, Kansas!

Full Practice Authority for NPs in 26 states, D.C. and two U.S. territories gives patients full and direct access to NP-delivered care.

40

that's variation **1**

who can prescribe

41

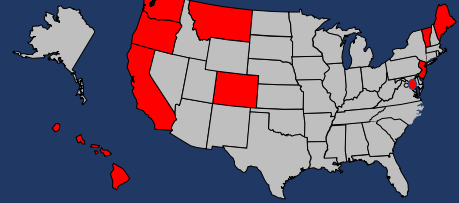
variation **2**

42

how **many**
clinicians

43

10 states



44

takes
(at least) **2**

45

attending
plus
consulting

46

but

47



48

only 1

49

prescriber is physician
and
patient on hospice

50



51

bills in
new states

52



53

that's variation 2
how many
clinicians

54

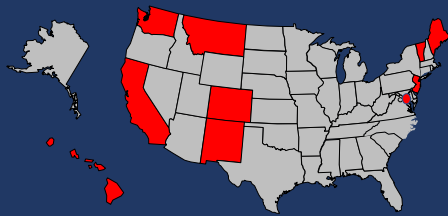
variation **3**

55

who is eligible

56

10 states



57

“resident of _____ state”

58

A 3D rendering of a red push button with a silver base. The word "easy" is written in white, lowercase, sans-serif font on the top surface of the button.

59

driver license
voter registration
tax return
own or **lease property**

60



61



62



63



64



65



March 2022

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

NICHOLAS GIDEONSE, M.D.,

Case No. 3:21-cv-1568

Plaintiff,

NOTICE OF SETTLEMENT

v.

KATE BROWN, in her official capacity as
Governor of Oregon; ELLEN ROSENBLUM

66



67



68



69

**March
2022**

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

NICHOLAS GIDEONSE, M.D.,

Case No. 3:21-cv-1568

Plaintiff,

NOTICE OF SETTLEMENT

v.

KATE BROWN, in her official capacity as
Governor of Oregon; **ELLEN ROSENBLUM**

70

82nd OREGON LEGISLATIVE ASSEMBLY-2023 Regular Session

House Bill 2279

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Oregon Health Authority)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Repeals residency requirement in Oregon Death with Dignity Act.
Declares emergency, effective on passage.

71



72



73

FILE
2022 AUG 25
CLERK

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

**LYNDA BLUESTEIN and DIANA
BARNARD, M.D.**

Civil Action No. BY DEPUTY
2:22-cv-

Plaintiffs,

vs.

**PHILLIP BRIAN SCOTT, Governor of
Vermont, SUSANNE YOUNG, in her official**

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF,
PURSUANT TO 42 U.S.C. § 1983**

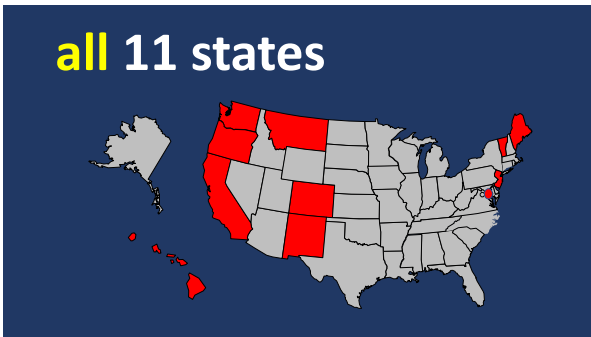
74



75



76



77



78

that's variation **3**

who is eligible

79

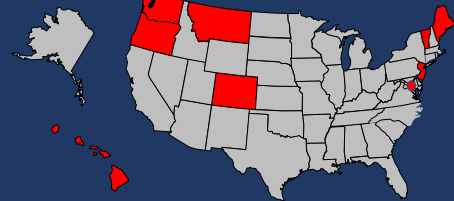
variation **4**

80

How **long** is
the waiting
period

81

9 states



82

2 oral requests
separated by
15+ days

83



84

20 days

85

undue
burden

86

many patients
cannot wait
that long

87

SO...

88

2 states
shortened
wait period

89



90



S.B. 380

91



92



93



94

17 → 15

S.74 (2022)

95

bills in MAID states

HI WA

S.B. 5179
H.B. 1141

96

bills in
new states

97



98



99

only **1** request
no waiting period

100

that's variation **4**
how long is the
waiting period

101

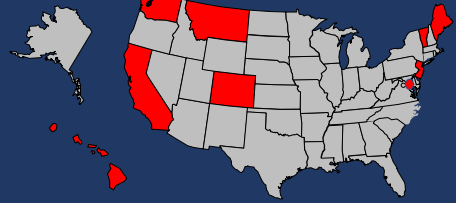
variation **5**

102

Is the waiting
period **waivable**?

103

9 states



104

all patients
must satisfy
waiting period

105

2
15
20

106

but

107

some patients
cannot wait
that long

108

SO...

109

2 states allow
waiver of
wait period

110



111



112

EXEMPT

113

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

114



115

current
MAID states

116



117



118



119

EXEMPT

120

prospective
MAID states

121



122



123



124



125



126

“not expected to survive”

or

“intractable suffering”

127

that’s variation **5**

is the waiting
period waivable

128

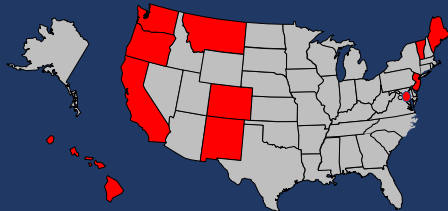
variation **6**

129

what must providers
do when they object
for **conscience**

130

11 states

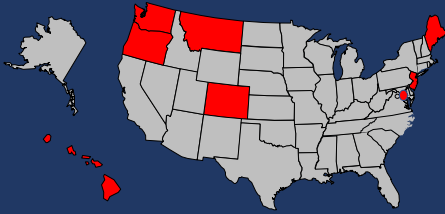


131

participation
voluntary

132

8 states



133

only duty
objecting clinicians

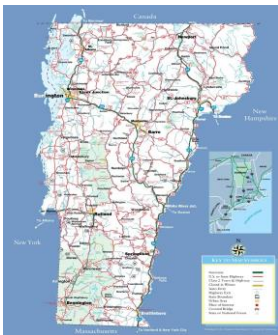
134

transfer
records

135

but

136



Vermont

137

must do
more

138

inform
or
refer

139

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF VERMONT

VERMONT ALLIANCE FOR ETHICAL
HEALTHCARE, INC.; CHRISTIAN
MEDICAL & DENTAL ASSOCIATIONS,
INC.,
Plaintiffs,

v.

WILLIAM K. HOSER, et al.
Defendants.

Civil Action No. 5:16-cv-205
CONSENT AGREEMENT AND
STIPULATION

140



S.B. 380

141

document date request
and
counts as 1 of 2 requests

142



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CHRISTIAN MEDICAL AND
DENTAL ASSOCIATION, et al.,
Plaintiffs,

v.

ROB BONTA, et al.,
Defendants.

Case No. 5:22-cv-00335-FLA (GISx)

ORDER GRANTING IN PART
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION (DK1
50)

Date: July 8, 2022
Time: 1:30 p.m.

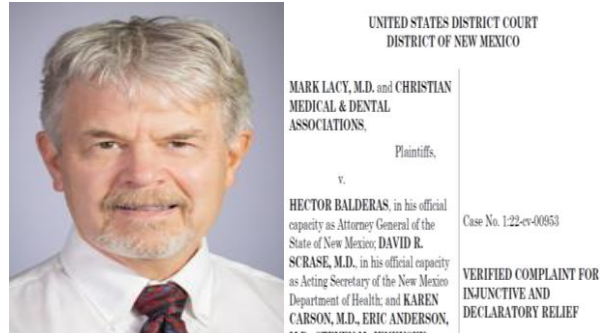
143



144

“refer ... provider
who is able and
willing”

145



146

that's variation 6

how to object
for conscience

147

variation 7

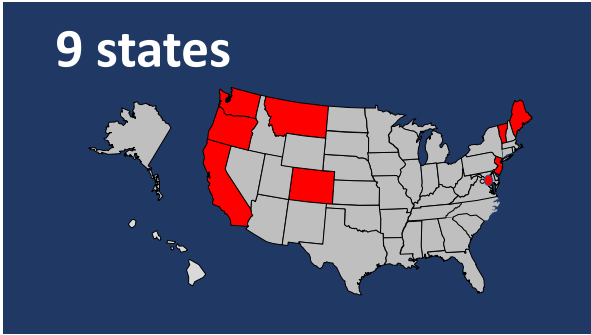
148

How many capacity
assessments

149



150



151



152



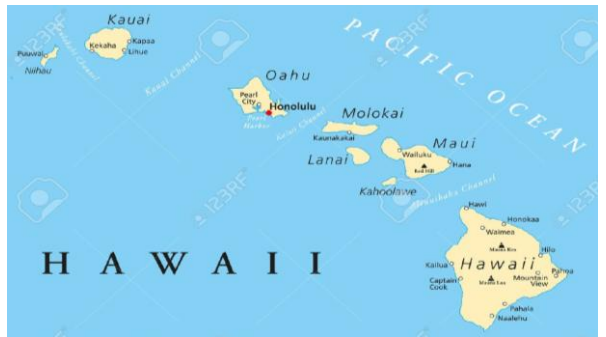
153



154



155



156

always **3**
assessments by 3 clinicians

157

not
contingent
on capacity doubts, concerns

158

every
patient

159

always
gets 3rd screening

160



161

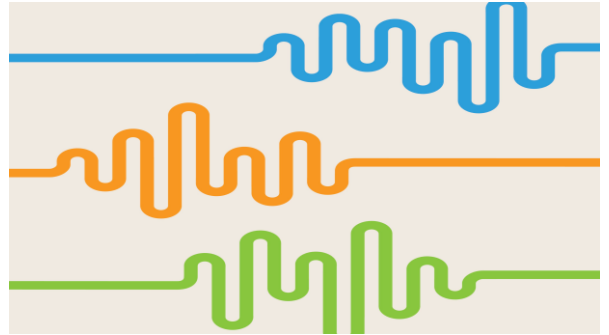
only **1**

162

unless recent history
or suspicion

“mental health disorder or an
intellectual disability that could
cause **impaired judgment**”

163



164

that's variation **7**

how many capacity
assessments

165

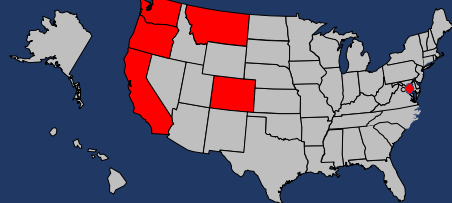
variation **8**

166

Who can do mental
health assessments

167

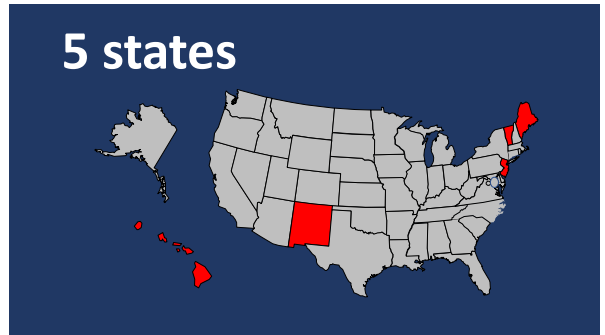
6 states



168

psychologist
or
psychiatrist

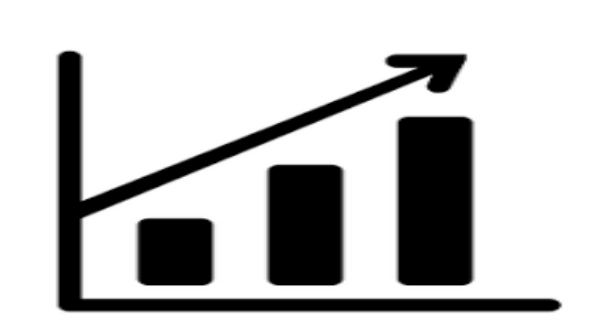
169



170

LCSW
clinical mental health counselor
psychiatric nurse practitioner

171



172



173

Tomorrow - 9:55 to 10:50
Capacity and Judgment
Evaluations for Patients
Considering Aid in Dying

174

variation 9

175

LEGISLATIVE



primary focus

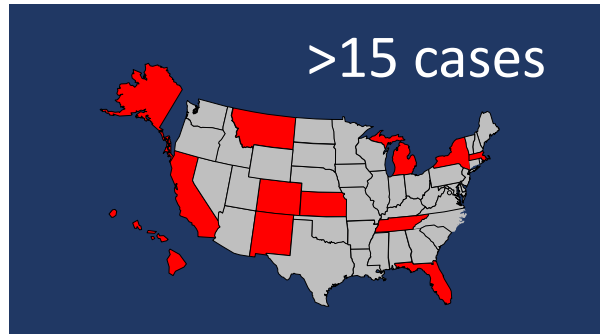
176

JUDICIAL



early years

177



178

2022

179

JUDICIAL



renew

180

4 examples

181



182



183



184



185



186



187

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED
JAN 03 2023
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

LONNY SHAVELSON, M.D.;
ROBERT USLANDER, M.D.; GARY
PASTERNAK, M.D.; RICHARD
MENDIUS, M.D.; END OF LIFE
CHOICES CALIFORNIA,

Plaintiffs - Appellants,

v.

STATE OF CALIFORNIA; ROB
BONTA, Attorney General of the State
of California, in his official capacity;
NANCY O'MALLEY, Alameda County
District Attorney, in her official
capacity.

No. 23-15003

D.C. No. 3:21-cv-06654-VC
U.S. District Court for Northern
California, San Francisco

TIME SCHEDULE ORDER

188

Today - 1:25 to 2:20
ALS & the Complexities of
Neurodegenerative
diseases — from prognosis
to ingestion

189



190



191



192



193

that's variation **9**

judicial v. legislative
approaches

194

Conclusion

195

9

variations
MAID laws

196

MORE MORE MORE

197

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 W www.thaddeuspope.com
 B medicalfutility.blogspot.com

198