

TESTIMONY OF SUSAN KLEIN
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In Support of HB 1133
The “Designated Health Care Decision-Maker Act”
April 15, 2015

On behalf of Missouri Right to Life I urge you to support the final version of HB 1133, the Designated Health Care Decision-Maker Act, and send it to the floor.

A wide group of organizations of differing perspectives have been negotiating for months to produce a painstakingly constructed bill, which is acceptable to numerous stakeholders. As in any legislation that has been the result of such negotiation, there are provisions in the bill that, if Missouri Right to Life were to have had its preferred position prevail on every point, would have been written differently. On balance, however, we are convinced that this bill contains solid protections to protect the right to receive life-saving medical treatment, food and fluids, and in important respects is significantly more protective than current Missouri law.

Let me highlight what is a particularly important improvement from current law in the pro-life viewpoint: The Designated Health Care Decision-Maker Act, contains anti-discrimination language that effectively protects patients from involuntary denial of life-saving health care by health care providers based on the providers’ claim that the patient’s “quality of life” is too poor.

The sad reality is that numerous bioethical and medical journal articles, as well as statements by prestigious medical organizations maintain that health care providers should not provide life-preserving treatment to patients whose quality of life, because of age, disability, or another factor, they believe not to be worth preserving, regardless of the views of the patient or patient’s health care decision-maker. Section 404.908.4 includes language protecting against discriminatory denial of treatment based on age, disability or terminal illness and, even when treatment is involuntarily denied for other reasons, requires provision of directed life-preserving treatment pending transfer to a willing health care provider.

If HB 1133 is enacted, Missouri will be among the foremost states in protecting its residents against involuntary euthanasia. I urge your support for it.

“At its core, the dispute in futility cases is about quality of life: Who decides what it is and when, if ever, it justifies the administration or foregoing of life-sustaining treatment.” Alan Meisel & Kathy Cerminara, *The Right to Die The Law of End of Life Decisionmaking* (3rd ed. 2014) §13.03. E. Haavi Morreim states it “revolves around fundamentally irresolvable moral conflicts concerning our most deeply held beliefs about the value of life, especially profoundly diminished life.” Catherine A. Marco, Gregory L. Larkin, John C. Moskop and Arthur R. Derse, state (in “Determination of Futility in Emergency Medicine,” *Annals of Emergency Medicine* June 2000 pp. 604-612) that “there may be an ethical obligation to withhold ... treatment, particularly if it entails significant risk or cost.” W. Daniel Doty maintains, “The greatest injustice routinely endured in the current system is maintaining patients...with invasive treatment modalities simply because they live in a technological era.... Expending resources on imminently dying patients is unethical because it supports selfish individualism at the expense of society.” “Medical Futility,” *Clinical Cardiology*, February 2000 Supplement II-6 - II-16 Leslie Whetstine and David Crippen claim “If the proposed intervention is costly, the ethical principle of justice becomes an important consideration. Justice requires physicians to make wise use of health care resources.... The treating physician’s ethical obligations . . . logically limit the patient’s autonomous choices to those options the physician can ethically offer.” “Desire vs. Need in the Medical Marketplace,” *Cost & Quality*, September 1999, 31-33.

