

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT
DEPARTMENT OF THE
TRIAL COURT

Dr. Roger M. Kligler and Dr. Alan Steinbach,

Plaintiffs,

v.

Maura T. Healey, in her official capacity as the
Attorney General of the Commonwealth of
Massachusetts, and Michael O'Keefe, in his
official capacity as District Attorney of Cape &
Islands District,

Defendants.

CIVIL ACTION NO. 16-3254F



COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

INTRODUCTION

1. This action is brought to validate the liberty, autonomy, and privacy rights of terminally ill persons and their doctors to make compassionate end-of-life decisions without fear of criminal prosecution.

2. "Medical Aid in Dying" refers to the recognized medical practice of allowing mentally competent, terminally ill adults to obtain medication that they may choose to take to bring about a quick and peaceful death.

3. Plaintiff Roger M. Kligler, M.D. is a competent adult who seeks physician assistance to obtain medication so that he may live out the rest of his days knowing that, if his suffering becomes too great due to his cancer, he has the option of ending his life peacefully.

4. Plaintiff Alan Steinbach, M.D. is a licensed physician who, if requested, would provide information and advice regarding, as well as write prescriptions for, Medical Aid in

Dying pursuant to the medical standard of care but for the fear of felony charges under the laws of the Commonwealth of Massachusetts, including but not limited to prosecution under the common law crime of manslaughter.

5. Plaintiffs seek a declaration that Medical Aid in Dying is not a criminal offense under the laws of the Commonwealth of Massachusetts, or in the alternative, a declaration that prosecution of physicians who provide Medical Aid in Dying is unlawful and unconstitutional as applied to physicians who aid mentally competent, terminally ill adults by providing medication that the patients can self-administer if and when their suffering becomes unbearable. Plaintiffs also seek an injunction prohibiting Defendants from prosecuting such doctors.

6. Because Dr. Kligler's medical conditions are worsening, Plaintiffs will seek preferential treatment for expedited court scheduling.

PARTIES

7. Plaintiff Roger M. Kligler, M.D., is a resident of Falmouth, Barnstable County, Massachusetts, and has retired from his day to day internal medicine practice. Dr. Kligler is a mentally competent adult. Dr. Kligler was diagnosed with Stage 4 Metastatic Castrate-Resistant Prostate Cancer. Based on his diagnosis and current treatments, people live a median of 25 months, with a range of 7 to 57 months after starting treatment. Dr. Kligler began treatment with Sipuleucel-T in July 2016. As his disease progresses he wants to obtain a prescription pursuant to the practice known as Medical Aid in Dying so that he may have an option of self-administering medication if and when his suffering at the end of his life becomes unbearable. He is unable to obtain such a prescription because he is unable to find a doctor in Massachusetts who is willing to provide such a prescription for fear of criminal prosecution. Dr. Kligler has an inactive Massachusetts medical license and a valid Drug Enforcement Administration prescribing number,

but state law precludes him from writing a prescription for himself.

8. Plaintiff Alan Steinbach, M.D., is a resident of Woods Hole, Barnstable County, Massachusetts, and is licensed to practice medicine in the Commonwealth of Massachusetts. He is a family practice physician that, after a long career, has transitioned to working on Cape Cod. Dr. Steinbach treats patients in both urgent care and as a primary care physician. As such, in the past and in his current work, he regularly advises clients on a variety of end-of-life options. Dr. Steinbach does not provide Medical Aid in Dying because he fears criminal prosecution under the laws of Commonwealth of Massachusetts. He would like to provide information and advise patients about all of their end-of-life options, including Medical Aid in Dying. If Medical Aid in Dying were explicitly lawful in Massachusetts, he would be willing to write a prescription for medication to terminally ill, competent adults who, at their own discretion, could exercise the option to self-administer the drug.

9. Defendant Maura T. Healey is the Attorney General of the Commonwealth of Massachusetts and is named as Defendant in her official capacity. The Attorney General is an elected official and the chief law enforcement officer of the state. She is responsible for implementing and enforcing the criminal laws of the Commonwealth of Massachusetts.

10. Defendant Michael O'Keefe is the District Attorney for the Cape & Islands District and is named as a Defendant in his official capacity. The District Attorney is an elected official and the chief law enforcement officer of the Cape & Islands District. He is authorized to initiate prosecutions on behalf of the Commonwealth of Massachusetts, and represents the Commonwealth in the prosecution of all criminal offenses that occur within the Cape & Islands District.

JURISDICTION AND VENUE

11. This Court has subject-matter jurisdiction over this case pursuant to its general jurisdiction and Mass. Gen. Laws ch. 212, § 4.

12. This Court has personal jurisdiction over Plaintiffs and Defendants because they are domiciled in the Commonwealth of Massachusetts.

13. This Court is a proper venue pursuant to Mass. Gen. Laws ch. 223, § 1.

FACTS COMMON TO ALL COUNTS

14. “Medical Aid in Dying” refers to the recognized medical practice of responding to requests from mentally competent, terminally ill adults for medication that they may choose to take to bring about a quick and peaceful death. Medical Aid in Dying is now an explicitly authorized and lawful practice in California, Montana, Oregon, Vermont, and Washington.

15. Because of their progressing symptoms, terminally ill patients are often confronted with the gradual loss of their quality of life, which becomes marked by steadily decreasing bodily function and control, and often the increase of unbearable pain and other symptoms. Their illnesses make it difficult and later impossible to enjoy the activities that gave meaning and purpose to their lives. These patients know they are going to die but are limited in their options in determining the time, place, and means of their death.

16. In Massachusetts, it is a lawful and accepted practice for a terminally ill patient, whose life is sustained only by a feeding tube, dialysis, ventilator, or other medical intervention, to choose to direct the withdrawal of that intervention and receive pain treatment until she succumbs to her condition. These deaths are not deemed “suicide” under Massachusetts law, and physicians who follow the patient's direction to withdraw the life-sustaining treatment are not prosecuted under Massachusetts law.

17. It is also lawful in Massachusetts and an accepted medical practice for a terminally ill patient, whose condition causes intolerable pain unrelieved by medications, to receive palliative sedation, a procedure in which the physician administers intravenous analgesics until the patient is pain free, and which almost always causes the patient to lose consciousness. Often patients simultaneously forgo sustenance until they die. Death can occur hours or days later depending on the illness and the condition of the patient when palliative sedation was started. These deaths are not deemed “suicide” under Massachusetts law, and physicians who follow the patient’s direction to sedate them and withhold nutrition and hydration are not prosecuted under Massachusetts law.

18. In Massachusetts, there is no statutory provision that prohibits providing Medical Aid in Dying. And while plaintiffs view Medical Aid in Dying as separate and distinct from suicide, nor is there a statutory provision that prohibits medical aid in another person’s suicide when such aid is provided with the intent to alleviate suffering pursuant to a medical standard of care.

19. Massachusetts has prosecuted people who encouraged or provided the means for another’s suicide for involuntary manslaughter in the past. *See Persampieri v. Commonwealth*, 343 Mass. 19 (1961); *Commonwealth v. Carter*, 474 Mass. 624 (2016).¹

20. Massachusetts’ practice of prosecuting people who have encouraged or provided the means for another’s suicide creates uncertainty as to whether informing or advising patients regarding Medical Aid in Dying or providing a prescription for Medical Aid in Dying is also a

¹ The Supreme Judicial Court explicitly recognized that *Commonwealth v. Carter* did not involve Medical Aid in Dying, was “not about a person seeking to ameliorate the anguish of someone coping with a terminal illness and questioning the value of life” and was not about a person “offering support, comfort, and even assistance to a mature adult who, confronted with such circumstances, has decided to end his or her life.” 474 Mass. at 636. The relief requested by plaintiffs would not disturb the holding in *Carter* that a “systematic campaign of coercion” targeting an equivocating victim to “subvert his willpower” may be prosecuted as manslaughter in the Commonwealth.

prosecutable offense. Due to these uncertainties, physicians, such as Plaintiff Alan Steinbach, M.D., are unable to counsel patients regarding Medical Aid in Dying or to provide prescriptions to patients who request such a prescription for fear of criminal prosecution.

21. To the extent that any criminal prosecution, including a charge of involuntary manslaughter, is brought against physicians giving information and advice about, or providing a prescription for, Medical Aid in Dying, such prosecution prohibits a mentally competent, terminally ill adult from receiving information, advice, or a prescription pursuant to a medical standard of care for Medical Aid in Dying from a physician. Although Medical Aid in Dying is an explicitly authorized practice in five states, in the absence of clear guidance that physicians who provide Medical Aid in Dying will be free from criminal prosecution in Massachusetts, physicians are unable to counsel their patients of such an option, or provide a prescription for Medical Aid in Dying, for fear of prosecution.

22. Plaintiff Roger Kligler, M.D., is a fully competent adult who understands and accepts his terminal prognosis. During his medical career he has witnessed firsthand the ravages that cancer patients must endure at the end of life and now shares the same diagnosis of patients to whom he had previously provided care. Dr. Kligler desires the option of a peaceful death without suffering, and he therefore wants Medical Aid in Dying to be an option in his end-of-life health care. As he nears death and his pain and suffering become unbearable, he wishes to seek and receive the option of Medical Aid in Dying. But he is afraid of requesting Medical Aid in Dying from his physicians due to the uncertainties of criminal penalties his physicians or even family members may have to endure.

23. Having a prescription for Medical Aid in Dying medication that he could self-administer if his suffering became too great in the final days would provide great comfort to him,

would alleviate anxiety related to the dying process and allow him to live his final days more fully confident that he would not have to suffer needlessly.

24. Plaintiff Alan Steinbach, M.D., encounters in his medical practice and cares for terminally ill persons for whom there is no chance of recovery. Some of these patients do not want to linger in a state of palliative sedation, nor are their lives being supported by medical interventions that could be withdrawn. Some of those terminally ill, competent persons would choose the option of Medical Aid in Dying. Dr. Steinbach expects to encounter similar patients in the future as he continues his practice.

25. Dr. Steinbach believes that patients should get the best possible care at the end of life and often will coordinate care among various specialists to ensure a continuity of care that keeps the patient's goals and values at the forefront of the treatment plan.

26. Dr. Steinbach does not consider a patient who has chosen Medical Aid in Dying to have committed suicide, and he believes that Medical Aid in Dying is a compassionate and ethical choice in appropriate circumstances. He is uncertain, however, as to whether counseling patients regarding Medical Aid in Dying and providing prescriptions to patients who wish to receive Medical Aid in Dying is a criminal offense. As a consequence, he is deterred from providing information regarding the option of Medical Aid in Dying even to patients who request it. Were it not for the fear of prosecution, Dr. Steinbach would provide information, advice and prescriptions for medication for Medical Aid in Dying in appropriate cases. Dr. Steinbach would write such a prescription knowing that it would alleviate suffering and serve to comfort his patients in their last days even if they ultimately chose to forgo using the medication.

27. Massachusetts has embraced a public policy of promoting rights of privacy in end-of-life care decisions, which is reflected in Massachusetts's Health Care Proxies Law. Mass.

Gen. Laws Ann. ch. 201D, § 1. Under the Health Care Proxies Law, a patient has the right to appoint a health care proxy to “make any and all health care decisions on the principal's behalf that the principal could make, including decisions about life-sustaining treatment” even when doing so will cause death. Mass. Gen. Laws Ann. ch. 201D, § 5.

28. Massachusetts courts recognize a fundamental right of citizens to make end-of-life decisions including the right to refuse life-sustaining treatment or nutrition. *Norwood Hosp. v. Munoz*, 409 Mass. 116, 123 n. 36 (1991) (recognizing “[t]he law protects [a person’s] right to make her own decision to accept or reject treatment, whether that decision is wise or unwise.”); *Shine v. Vega*, 429 Mass. 456, 467 (1999) (“[A] competent patient’s refusal to consent to medical treatment cannot be overridden whenever the patient faces a life threatening situation.”).

29. Massachusetts courts have emphasized that this right to self-determine one’s medical treatment reflects a patient’s autonomy in judging the quality of life she can expect in the time remaining. *See Brophy v. New England Sinai Hosp. Inc.*, 398 Mass. 417, 432 n.27 (1986) (recognizing that prolonged life would be “at the patient’s sole expense and against his competent will, thus inflicting never ending physical torture on his body until the inevitable, but artificially suspended, moment of death. Such a course of conduct invades the patient’s constitutional right of privacy, removes his freedom of choice and invades his right to self-determine”) (citing *Satz v. Perlmutter*, 379 So.2d 359 (Fla. 1980)).

30. Under the reasoning of these decisions, there is no rational or meaningful basis to distinguish between withdrawal of treatment to a terminally ill person and a physician’s provision of Medical Aid in Dying. Both treatment options provide a terminally ill, competent adult person with the option of a peaceful and pain-free death in the face of a protracted and agonizing alternative. Both options involve affirmative medical assistance in carrying out the

person's end-of-life medical care. And both options provide a patient with the ability to decide for herself whether the inevitable and debilitating pain that she is suffering is worth enduring when her death is imminent.

31. Outside of Massachusetts, Medical Aid in Dying is an explicitly authorized medical practice in jurisdictions such as California, Montana, Oregon, Vermont, and Washington, and a standard of care has developed around this end-of-life option, including Clinical Criteria. In these jurisdictions, such practices and procedures exist to verify that persons requesting the option of Medical Aid in Dying are terminally ill adults who are mentally competent to make medical decisions and give informed consent.

32. Where Medical Aid in Dying is an available, explicitly authorized option for terminally ill persons, end-of-life care tends to improve through increased use of hospice care, better pain management, and other factors.

33. Terminally ill persons seek the option of Medical Aid in Dying for a variety of reasons, including accelerating and uncontrollable symptoms, loss of autonomy, loss of dignity, and loss of freedom and ability to enjoy the activities that made life enjoyable. Other terminally ill persons choose Medical Aid in Dying because other options, such as palliative sedation, withdrawal of life support, or the voluntary stopping of eating and drinking, are not available to them or are not the way in which the individual wants to live their last days.

34. A significant number of the persons who are prescribed medications for Medical Aid in Dying never exercise that option, but are provided peace of mind by having the option to end their suffering if it becomes unbearable.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Mass Gen. Laws ch. 231A, § 1 - Declaratory Judgment)

35. Plaintiffs incorporate the allegations set forth above and fully re-allege them here.

36. Massachusetts does not have any statute that expressly prohibits one from aiding or assisting in another's suicide. Massachusetts, however, has prosecuted under the common law crime of manslaughter persons who provided advice or encouragement in another's suicide or who provided the means to another's suicide.

37. A person's decision to seek the option of Medical Aid in Dying is similar to the autonomous decision that one might make to refuse life-sustaining treatment or to withdraw life-sustaining interventions. Such patient decisions are not considered "suicide" and physicians that provide care to those plaintiffs pursuant to a medical standard of care do not fall under the scope of criminal laws of the Commonwealth of Massachusetts.

38. Because the Medical Aid in Dying sought by Plaintiffs is, for practical purposes, equivalent to refusing or withholding of life-sustaining treatment, it too should be free from criminal prosecution.

39. A declaration that providing Medical Aid in Dying is not prosecutable as a criminal offense is necessary to avoid conflict with the Massachusetts Constitution. To the extent prosecution for a criminal offense under Massachusetts common law or a criminal statute prohibits doctors from providing the option of Medical Aid in Dying pursuant to a medical standard of care to terminally ill, competent adults, it is unconstitutional.

40. Uncertainty in whether manslaughter charges will apply to Medical Aid in Dying casts substantial doubt over the rights and duties of the parties as they relate to a physician

providing the option of Medical Aid in Dying to a mentally competent, terminally ill adult.

41. Plaintiffs present an active controversy because the continued threat of criminal prosecution imposes harm on all Plaintiffs by preventing physicians from providing appropriate end-of-life care to terminally ill persons—care that could give them an option that would greatly reduce their suffering and provide needed comfort to the terminally ill persons and their families.

42. Pecuniary compensation will not afford adequate relief in this case.

43. Plaintiffs seek a declaration that manslaughter charges are not applicable to physicians who follow a medical standard of care and write a prescription to terminally ill, competent adults who request such aid and may choose to self-administer the medication consistent with the practice of Medical Aid in Dying.

SECOND CAUSE OF ACTION

(Mass. Const. Part I Art. X - Vagueness)

44. Plaintiffs incorporate the allegations set forth above and fully re-allege them here.

45. Massachusetts law contains no explicit statutory prohibition against advising or aiding another's suicide. Massachusetts law also contains no explicit statutory prohibition against Medical Aid in Dying. But Massachusetts has prosecuted people who encouraged or provided the means for another's suicide for involuntary manslaughter in the past. And although Medical Aid in Dying is distinct from the types of cases that have been prosecuted in the past, the elements needed to prosecute individuals in those cases could arguably be applied to Medical Aid in Dying.

46. To the extent criminal prosecution under the common law of manslaughter or statutory murder is applied to physicians who provide Medical Aid in Dying, such laws are impermissibly vague under the Massachusetts Constitution for failing to specifically enumerate

the practices that are prohibited.

47. Accordingly, Plaintiffs seek a declaration that physicians who follow a medical standard of care and write a prescription pursuant to the practice of Medical Aid in Dying to terminally ill, competent adults who request such aid do not violate criminal law, including the common law crime of manslaughter. Plaintiffs also seek an injunction prohibiting Defendants from prosecuting physicians who provide Medical Aid in Dying under those circumstances.

THIRD CAUSE OF ACTION

(Mass. Const. Part 1, Art. I (as amended by Amend. Art, XVI) - Right to Privacy)

48. Plaintiffs incorporate the allegations set forth above and fully re-allege them here.

49. To the extent any criminal statute or common law crime of manslaughter is applied to Medical Aid in Dying, such application impermissibly infringes on Plaintiffs' fundamental privacy rights.

50. The Massachusetts Constitution is, if anything, more protective of individual liberty and equality than the federal Constitution; it may demand broader protection for fundamental rights; and it is less tolerant of government intrusion into the protected spheres of private life. *Goodridge v. Dep't of Pub. Health*, 440 Mass. 309, 313 (2003).

51. Criminal prosecution against physicians who provide Medical Aid in Dying violates Plaintiffs' privacy rights under the Massachusetts Constitution by interfering with a person's basic autonomy in deciding how to confront their own mortality and choose their own destiny.

52. Accordingly, Plaintiffs seek a declaration that physicians who follow a medical standard of care and provide a prescription for Medical Aid in Dying to terminally ill, competent adult persons who request such aid does not violate criminal law, including the common law

crime of manslaughter. Plaintiffs also seek an injunction prohibiting Defendants from prosecuting physicians who provide Medical Aid in Dying under those circumstances.

FOURTH CAUSE OF ACTION

(Mass. Const. Part 1, Arts. I (as amended by Amend. Art, XVI), X, and XII - Right to Liberty)

53. Plaintiffs incorporate the allegations set forth above and fully re-allege them here.

54. To the extent criminal prosecution under the common law of manslaughter or statutory murder is applied to physicians who follow a medical standard of care and provide Medical Aid in Dying, such law is an unconstitutional restriction on Plaintiffs' fundamental liberty interests.

55. Article I of the Declaration of Rights of the Massachusetts Constitution provides that "[a]ll people . . . have certain natural, essential and unalienable rights; among which may be reckoned the right of enjoying and defending their Lives and Liberties" Mass. Const. Part 1, Art. I (as amended by Amend. Art, XVI). This basic civil right of personal autonomy and liberty includes the right of competent adults to control decisions relating to the rendering of their own health care. *See Norwood Hosp. v. Munoz*, 409 Mass. 116, 122 (1991) ("This court has recognized the right of a competent individual to refuse medical treatment. We have declared that individuals have a common law right to determine for themselves whether to allow a physical invasion of their bodies.")

56. Criminal prosecution against physicians who provide Medical Aid in Dying violates Plaintiffs' liberty rights under the Massachusetts Constitution by prohibiting mentally competent, terminally ill adults from receiving aid from willing physicians to avoid a protracted and extremely painful death, and to provide comfort and peace of mind that allows them to live their last days to the fullest.

57. Accordingly, Plaintiffs seek a declaration that physicians who follow a medical standard of care and provide a prescription for Medical Aid in Dying to terminally ill, competent adult persons who request such aid does not violate criminal law, including the common law crime of manslaughter. Plaintiffs also seek an injunction prohibiting Defendants from prosecuting physicians who provide Medical Aid in Dying under those circumstances.

FIFTH CAUSE OF ACTION

(Mass. Const. Part I, Art. XVI, Right to Free Speech, as amended by Amend. Art. LXXVII)

58. Plaintiffs incorporate the allegations set forth above and fully re-allege them here.

59. Massachusetts has prosecuted persons who provide verbal encouragement to another to commit suicide under the common law crime of manslaughter. *See e.g., Commonwealth v. Michelle Carter*, SJC-12043 (Mass. July 1, 2016).

60. To the extent a criminal offense such as the common law crime of manslaughter is applied to physicians based on their providing information and advice regarding Medical Aid in Dying to patients who later voluntarily ingest Medical Aid in Dying medication, such prosecution is unconstitutional because it impermissibly abridges their freedom of speech.

61. To the extent that a criminal offense such as the common law crime of manslaughter is applicable to physicians following a medical standard of care and providing information and advice regarding Medical Aid in Dying, it prohibits physicians from advising mentally competent, terminally ill adults with regard to end-of-life options available in other states. This limitation on a physician's expression of what, in her professional medical judgment, is an appropriate treatment option is an unlawful restraint on the freedom of speech in violation of Article XVI of the Declaration of Rights in the Massachusetts Constitution, as amended by Amendment Article LXXVII.

62. In addition, such limitation on a physician's ability to provide information on available end-of-life options even to the patients who request such information hinders a physician's ability to provide full and complete information necessary for obtaining patients' informed consent for subsequent medical treatment.

63. Accordingly, Plaintiffs seek a declaration that the criminal laws of the Commonwealth of Massachusetts, including criminal laws prohibiting manslaughter, cannot and do not apply to physicians who advise and counsel terminally ill, competent adult persons about Medical Aid in Dying. Plaintiffs also seek an injunction prohibiting Defendants from prosecuting physicians who inform, advise, or counsel patients about Medical Aid in Dying under those circumstances.

SIXTH CAUSE OF ACTION

(Mass. Const. Amend. Art. CVI - Right to Equal Protection)

64. Plaintiffs incorporate the allegations set forth above and fully re-allege them here.

65. To the extent that the common law crime of manslaughter is applied to physicians who follow a medical standard of care and provide Medical Aid in Dying, such prosecution results in an impermissible distinction among terminally ill, competent adults who wish to receive medical assistance for Medical Aid in Dying.

66. Massachusetts law permits its terminally ill, competent adults to request and receive medical aid and advice in hastening death by withdrawing life-sustaining treatment (including nutrition and hydration)—active steps taken by medical professionals to hasten death and prevent prolonged pain. Yet terminally ill, competent adults who cannot avoid suffering in this way would be prevented from similarly receiving affirmative medical aid if Medical Aid in Dying is not permitted. Both groups seek to control the circumstances of their inevitable deaths

For more information, please visit <http://www.compassionandchoices.org>

by preventing unnecessary and extended suffering, often accompanied by uncontrollable pain. To the extent that Medical Aid in Dying is prohibited, the groups are treated differently under Massachusetts law without justification, and the distinction between these groups cannot withstand any level of scrutiny.

67. Moreover, the distinction touches on Dr. Kligler's fundamental rights to privacy and liberty, warranting a higher level of scrutiny by the Court.

68. Dr. Kligler does not wish to linger in a state of palliative sedation until he dies of dehydration or starvation. Dr. Kligler and others like him would be barred from a fundamental medical option for a peaceful and painless death if Medical Aid in Dying is found to be prohibited.

69. Accordingly, Plaintiffs seek a declaration that physicians who follow a medical standard of care and provide a prescription for Medical Aid in Dying to terminally ill, competent adult persons who request such aid do not violate criminal law, including the common law crime of manslaughter. Plaintiffs also seek an injunction prohibiting Defendants from prosecuting physicians who provide Medical Aid in Dying under those circumstances.

PRAYER FOR RELIEF

70. WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

A. Declaring that physicians do not violate the criminal laws of the Commonwealth of Massachusetts when they follow a medical standard of care and prescribe Medical Aid in Dying medications for self-administration by the patient, or when they provide information or advice about such medications; or alternatively, that application of criminal laws of the Commonwealth of Massachusetts to physicians providing such care

is unconstitutional under the Massachusetts constitution.

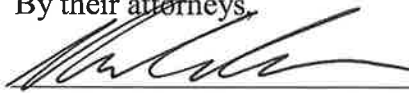
- B. Permanently enjoining Defendant from prosecuting physicians for providing information and advice to terminally ill, competent adult patients on Medical Aid in Dying or for prescribing medication for Medical Aid in Dying to such patients upon request.
- C. Where appropriate, awarding Plaintiffs their costs, expenses, and reasonable attorneys' fees.
- D. Granting such other and further relief as the Court deems just and proper.

71. The relief requested in this action is sought against the Defendant, the Defendant's officers, employees, and agents, and against all persons acting in cooperation with the Defendant or under the Defendant's supervision, direction, or control.

72. Plaintiffs also respectfully request expedited scheduling due to Dr. Kligler's medical condition.

**DR. ROGER M. KLIGLER AND DR.
ALAN STEINBACH,**

By their attorneys,



Jonathan M. Albano, BBO #013850

Nathaniel P. Bruhn, BBO #681994

MORGAN, LEWIS & BOCKIUS LLP

One Federal Street

Boston, MA 02110-1726

617.951.8000

Of Counsel:

John Kappos (*pro hac vice* forthcoming)

Bo Moon (*pro hac vice* forthcoming)

O'MELVENY & MYERS LLP

610 Newport Center Drive, 17th Floor

Newport Beach, CA 92660

949.823.6900

-and-

Kevin Díaz (*pro hac vice* forthcoming)

Jonathan Patterson (*pro hac vice*
forthcoming)

COMPASSION & CHOICES

4224 NE Halsey Street, Suite 335

Portland, OR 97213

503.943.6532

Dated: October 24, 2016