

Euthanasia Prevention Coalition USA

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**Opposing
The Palliative Care and Hospice Education and Training Act (2019)
H.R. 647, S. 2080 (116th Congress)**

Position Statement

The Euthanasia Prevention Coalition - USA supports hospice and palliative care that mitigates distressing symptoms, relieves pain and maintains function. We support helping patients live well without placing them at risk of abuse, especially serious harm and hastening their deaths. We have serious concerns that federal legislation can maintain these goals.

Talking Points

The bill would extend palliative care provided by hospice to non-dying patients, federally fund medical education for this purpose and fund the “selling” of palliative care to the public.

1. Hospice, a palliative care program, is plagued by fraud, poor quality care leading to serious harm and deaths, while wasting hundreds of millions to billions of federal dollars.

A federal grand jury issued a \$60 million Medicare fraud indictment against Novus Health Services where patients were fraudulently billed at the highest hospice rate and nurses administered controlled substances to patients who did not need them, leading to patient deaths.¹

Federal investigators found hospices enrolling patients who are not terminally ill, without their knowledge or under false pretenses, providing poor quality care, and inappropriately billing Medicare hundreds of millions of dollars.² Eighty percent of hospices had deficiencies that pose risks to beneficiaries; 20% had deficiencies jeopardizing patients’ health and safety or substantially limited ability to provide adequate care.³ CMS does not fully disclose deficiencies to the public. *Id.*

Nearly half of hospices are unsure they could pass a government audit.⁴ Their biggest concern is enrolling people who are not terminal. *Id.* In 2016, Medicare spent \$9.5 billion for hospice patients who outlived their terminal prognosis. *Id.*

2. The PCHETA bill extends eligibility for palliative care beyond hospice to those with a “serious or life-threatening illness”, leaving the definition to federal bureaucrats and palliative care insiders after enactment (Bill Section 904(c)(3)).

Palliative care programs are used by hospices to enroll more patients earlier,⁵ even if not clinically appropriate.⁶ They should not have a role in changing the rules to fit their practices.

The bill provides funding for palliative care education centers like the nine created by the Center to Advance Palliative Care (CAPC).⁷ A doctor at Mount Carmel Health System, which houses one of these education centers, was recently charged with homicide in the deaths of 25 people by ordering outsize doses of fentanyl to be administered to them.⁸ At least 5 of these people could have survived with treatment. *Id.* His defense is he was providing “comfort care.” *Id.* “Comfort care” is a euphemism for hospice.⁹

Continued on reverse.

3. Palliative care is often a dangerous self-fulfilling pathway to hospice and death for people not otherwise dying who could have years to live.

Palliative leads to the deaths of people who were not otherwise dying, typically by casually assessing people as terminal and placing them in hospice where they are heavily sedated, overdosed on pain killers and denied food and water so the diagnosis becomes self-fulfilling.

These practices are so prevalent that they were described by the *Washington Post* in a 2014 series,¹⁰ identified as a serious problem by Duke University professor Farr Curlin, M.D. in 2015,¹¹ identified as a patient safety problem by the Agency for Healthcare Research and Quality in 2017,¹² and documented in the Novus Health Services indictment in 2017 mentioned earlier.¹³

4. The bill moves the determination and control of medical ethics to federal bureaucrats and provides no conscience protections.

5. The bill's ban (Section 5) on using the Act's funds for education about and promotion of assisted suicide, euthanasia and mercy killing (42 USC 14401, et al.) and added language in the Senate bill will not stop the abuse and hastened deaths of people enrolled in hospice and palliative care.

According to the HHS-OIG reports, vulnerabilities in CMS's efforts to prevent and address harms need to be rectified.¹⁴ Current law forbids CMS from publicizing deficiencies from accreditors.¹⁵

Until dangerous and unsafe palliative and hospice care can be identified before it is too late to protect patients, the federal government should not be promoting it.

¹ <https://www.justice.gov/usao-ndtx/pr/sixteen-individuals-charged-60-million-medicare-fraud-scheme>

² <https://oig.hhs.gov/oei/reports/oei-02-16-00570.asp> linking to the complete report.

³ <https://oig.hhs.gov/oei/reports/oei-02-17-00020.asp> linking to the complete report.

⁴ <https://homehealthcarenews.com/2018/10/nearly-half-of-hospice-providers-uncertain-they-would-survive-an-audit/>

⁵ <https://hospicenews.com/2019/05/14/study-71-of-u-s-adults-have-never-heard-of-palliative-care/> calling palliative care a loss leader for hospice providers. A loss leader is a service sold below cost to attract more customers who will then buy more profitable services. www.businessdictionary.com/definition/loss-leader.html

⁶ See notes 2 and 3.

⁷ <https://www.capc.org/palliative-care-leadership-centers/palliative-care-training-locations/>

⁸ <https://www.apnews.com/76da21c000334718bf3ff6971303a8d4>

⁹ AM Keleman and H Groninger, *Ambiguity in End-of-Life Care Terminology—What Do We Mean by “Comfort Care?”* *JAMA Internal Medicine* Nov 2018 Vol 178 at pages 1442-43.

¹⁰ Peter Whoriskey, *As More Hospices Enroll Patients Who Aren't Dying, Questions about Lethal Doses Arise*, *Washington Post*, August 21, 2014 <https://www.washingtonpost.com/news/storyline/wp/2014/08/21/as-more-hospices-enroll-patients-who-arent-dying-questions-about-lethal-doses-arise/>

¹¹ Farr A. Curlin, M.D., *Hospice and Palliative Medicine's Attempt at an Art of Dying*, chapter 4 in *Dying in the Twenty-First Century*, edited by Lydia Dugdale, MD, MIT Press 2015 at pages 47-8.

¹² <https://psnet.ahrq.gov/webmm/case/425/Palliative-Care-Comfort-vs-Harm> published November 2017.

¹³ See note 1.

¹⁴ See notes 2 and 3.

¹⁵ See note 3, page 2.