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Date: September 13, 2023

TO: Hearing Attendees and Commenters – OAR chapter 333, division 9, "Amend Death with Dignity rules to align with HB 2279 (2023) and broaden reporting options"

FROM: Brittany Hall, Hearing Officer and Administrative Rules Coordinator

cc: Jennifer Woodward, Section Manager  
Center for Health Statistics

SUBJECT: Presiding Hearing Officer's Report on Rulemaking Hearing and Public Comment Period

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### Hearing Officer Report

**Date of Hearing:** August 16, 2023, via Microsoft Teams

**Purpose of Hearing:** The purpose of this hearing is to receive testimony regarding the Oregon Health Authority (OHA), Public Health Division's proposed permanent amendment of Oregon Administrative Rules in chapter 333, division 9 pertaining to Death with Dignity, to align with statutory changes made by the passage of HB 2279 (2023) and to broaden reporting options.

During the 2023 Oregon Legislative Session, the legislature passed HB 2279 related to Oregon's Death with Dignity Act. The legislation removes the Oregon residency requirement which was initially included in the Act. As a result, individuals who are not residents of Oregon may now qualify to receive care under the Act.

In addition, consistent with direction from the legislature, OHA will permit documents and reports that physicians and other healthcare providers are required to send to OHA to be sent via secure email, as an option.

**Hearing Officer:** Brittany Hall

**Testimony Received:** No individuals provided oral testimony at the hearing.

**Other Comments:** Two individuals or organizations submitted written comments to OHA within the period allotted for public comment, which closed at 5:00 PM on August 21, 2023. These comments are briefly summarized as follows:

Callie Riley, NW Regional Advocacy Manager, Compassion & Choices Action Network

Callie Riley submitted written comments on behalf of Compassion & Choices Action Network “in full support of the Oregon Health Authority’s draft rules updating the state administrative code related to the Oregon Death with Dignity Act.” They wrote that the “proposed amendment to the rules related to the now-repealed residency restriction at OAR 333-009-0000 is a faithful implementation of HB 2279, and will thus improve patient access to the Oregon Death with Dignity Act for non-residents.” They further wrote that “the proposed changes to reporting rules at OAR 333-009-0010 are an important step toward modernizing the reporting process for physicians and pharmacists.”

Callie Riley’s written comments on behalf of Compassion & Choices Action Network are attached to this report as Exhibit 1.

**Agency response:** The Oregon Health Authority thanks Callie Riley and Compassion & Choices Action Network for their comments and participation in the rulemaking process.

Geoff Sugerman, Lobbyist, Death with Dignity National Center

Geoff Sugerman submitted written comments on behalf of Death with Dignity, a national organization based in Portland, in support of the amended rules. They wrote that the organization “appreciates the efficiency OHA has handled these rule changes as they moved through the legislative process and beyond.”

Geoff Sugerman’s written comments on behalf of Death with Dignity are attached to this report as Exhibit 2.

**Agency response:** The Oregon Health Authority thanks Geoff Sugerman and Death with Dignity for their comments and participation in the rulemaking process.



August 15th, 2023

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To whom it may concern,

Compassion & Choices Action Network writes in full support of the Oregon Health Authority's draft rules updating the state administrative code related to the Oregon Death with Dignity Act.

Compassion & Choices Action Network does not believe that a patient's access to end-of-life care should be determined by their zip code of residence. The proposed amendment to the rules related to the now-repealed residency restriction at OAR 333-009-0000 is a faithful implementation of HB 2279, and will thus improve patient access to the Oregon Death with Dignity Act for non-residents.

We also believe that the proposed changes to reporting rules at OAR 333-009-0010 are an important step toward modernizing the reporting process for physicians and pharmacists. Allowing submission of records via secure email in addition to postal mail and fax will make it easier for providers to fulfill their reporting obligations under the Oregon Death with Dignity Act, and recognizes the increasingly digital nature of health records and reporting.

We support these rules as drafted, and urge OHA to adopt them.

Respectfully submitted,

Callie Riley  
NW Regional Advocacy Manager  
Compassion & Choices Action Network  
503-314-3834  
[criley@compassionandchoices.org](mailto:criley@compassionandchoices.org)

*Compassion & Choices Action Network is the nation's oldest and largest consumer-based organization working to improve end-of-life care, expand options, and empower everyone to chart their own end-of-life journeys.*

# **DEATH WITH DIGNITY**

To: Public Health Division Rules Coordinator  
From: Geoff Sugerman, Death with Dignity National Center

Subject: Notice of Proposed Permanent Rulemaking: OAR chapter 333, division 9 – “Amend Death with Dignity rules to align with HB 2279 (2023) and broaden reporting options”

The proposed rule to amend the Oregon Death with Dignity Act by removing the residency requirement is necessary to both comply with the settlement agreement in *Gideonse v Oregon* and HB 2279, enacted in the 2023 session. On behalf of terminally ill patients we advocate for nationwide, we express their support for removing this unconstitutional barrier and providing them with this additional option at the end of their lives.

The proposed rule permitting secure electronic filings will allow for easier filing for physicians and will ensure OHA rules continue to meet ever-changing medical record-keeping practices that encourage efficiency and timely reporting.

Death with Dignity, a national organization based in Portland, supports these amended rules and appreciates the efficiency OHA has handled these rule changes as they moved through the legislative process and beyond.

Thank you.

Geoff Sugerman, lobbyist  
Death with Dignity  
[geoff.sugerman@gmail.com](mailto:geoff.sugerman@gmail.com)

*[Death with Dignity](#) was at the forefront of the passage of the first Death with Dignity law in the country: Oregon’s in 1994. Since then, Death with Dignity has continued highlighting the importance of ensuring everyone has the right to options in the face of terminal, painful deaths, including cancer.*