

TESTIMONY TO SENATE JUDICIARY COMMITTEE

HB477

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FROM: MARK CONNELL

Missoula MT

Oppose

I. I'm the Montana private attorney who represented Bob Baxter and the other plaintiffs in the Baxter v. State of Montana litigation, in both the district court and before the Montana Supreme Court.

II. HB477 is intended to overturn the Baxter decision. For my contribution to this debate, let me talk for a moment about why we brought the Baxter case, and more particularly **who** was involved – because I think it's important to understand that this issue is about **real people**, who are dealing with the most extraordinary challenge of their lives, and seeking under those circumstances to do what's best for themselves – applying their own personal codes of religion and morality when, after all, it's **their** lives, **their** deaths, and the length and degree of **their** suffering that are at stake. The problem with HB477 is that it takes the decision away from the very individuals whose lives and deaths are at stake. These are not people who want to be "protected" against themselves, or who want to abandon their own beliefs in favor of the value systems imposed by others.

III. Bob Baxter, and other terminally ill and dying Montanans, stepped forward, as many others are now likewise stepping forward, seeking your help:

A. These are your neighbors and fellow citizens, who need your voice.

B. These are people who were, or are **now**, in the process of dying – as we **all** will be in the process of dying at some point, every one of us in this room.

C. Bob Baxter, and the other people looking to you now are, in most cases, people who are reconciled to the inevitable process of dying. Let's recognize, however, what is at stake here:

1. The people I represented are seeking relief from painful, prolonged, and sometimes agonizing suffering;

2. Suffering which their doctors and medical science are unable to alleviate. [**Examples**: pain that can't be relieved except through inducing unconsciousness for days or weeks while...; breathlessness; sense of drowning; unbearable nausea; etc.]

3. Let this be understood: This is not something that the other side likes to admit, but the medical people on **both** sides of this case recognize, and agree, that there are a small but distinct number of dying patients whose suffering will be terrible and unrelieved, no matter what the doctors do to try to help them.

a) You will hear some of their stories today, and they are only a representative sample of many others.

4. These are people who found that there was no relief in sight from a) their doctors; b) the courts; or c) the legislature.

a) This situation could happen to any of us here – anyone here – and unfortunately it will happen, to some percentage of us, as sure as death and taxes.

(1) God forbid, it could be me, and it could be you – or any of those we love – who find themselves in the terrible predicament of **prolonged**, **unrelieved**, and **unrelievable** suffering, as they wait for a death that is approaching and unavoidable, despite the best efforts of all the doctors and hospitals in the world.

5. And finally, we're not talking about people who are casually considering what others call "suicide" as just an easy way out of this world. Aid in dying instead applies strictly to people who are **already** terminally ill – people who are about to die no matter what the doctors or lawyers or legislators do – and for whom the only question is how much suffering they will endure before the end.

6. The question I encourage this committee to consider: Shouldn't it be **the individual patients'** choice to make, in consultation with their spiritual advisors, family members and doctors as the end of their life approaches? As opposed to a choice the state government – through the **criminal** law – takes away?

a) This is the ultimate issue and lesson of the Baxter case, ladies and gentlemen: Should it be the **government's** interpretation of morality, ethics and religion that's imposed on these people – people who may well be **us** one day – or

their own individual choice of ethics, morality and spiritual beliefs that decide the issue for themselves?

b) As one of my clients said, in the midst of a particularly agonizing time for himself: “Why should someone else have the right to tell me, ‘You haven’t suffered enough?’, when it’s my life and death and suffering that are involved?”

7. This is not a political issue, or a “liberal” or “conservative” issue, but an issue that transcends politics. For people who, like most Montanans, believe in less government, particularly in matters like family values, religion and personal autonomy, this is an issue that should be left to the individual, and his or her own conscience and physicians.

8. That’s what the Montana Supreme Court decided in Baxter, ladies and gentlemen: That this is, and should remain, a personal decision for each of us to make, when our own time comes, as it will come.

A. I encourage you as strongly as I can to review Mr. Waterman’s comments, especially those that describe the extraordinarily detailed research that’s been done on Oregon’s experience with aid in dying over the last 17 years – that has led some of the nation’s preeminent medical groups, including the American Public Health Association – to find that the risks cited by opponents of aid in dying have not been borne out by real-life experience.

1. This data is not a series of individual anecdotes, that may or may not be accurately presented, but a carefully and dispassionately studied, peer reviewed, and reliable summary of 17 years of actual experience in one of our sister states. Please consider the Oregon experience and data carefully before you vote on HB477.