



# INITIATIVE MEASURE 119

TO THE LEGISLATURE

Note: The ballot title and explanatory statement were written by the Attorney General as required by law. The complete text of Initiative Measure 119 begins on page 27.

## Statement for

### STOP NEEDLESS PAIN AND SUFFERING OF TERMINAL PATIENTS

The law to protect patients' rights is not working. Too often people are kept alive by technology that only delays death, without any chance of recovery. Unconscious patients are maintained on tubes and machines against their previously expressed wishes, sometimes for years. Conscious and suffering adult patients within six months of death are not permitted to choose a death with dignity according to their own personal beliefs.

### STRENGTHEN THE LIVING WILL

The legislature has failed to meet the needs of hopelessly ill people. I-119 respects the last wishes of patients to refuse all artificial life supports—including feeding tubes—if such treatment only prolongs the process of dying, or if we end up in a permanent vegetative state and cannot return to consciousness.

### STRONG SAFEGUARDS PROTECT EVERYONE

Where two physicians have confirmed a terminal condition, a conscious and mentally competent dying adult patient will be able to ask his or her physician for medication to end life in a dignified, painless, and humane manner. Such written requests require two independent witnesses and can be revoked at any time. The options permitted by I-119 are completely voluntary for patients, physicians, and health-care facilities.

## Official Ballot Title:

Shall adult patients who are in a medically terminal condition be permitted to request and receive from a physician aid-in-dying?

## The law as it now exists:

Washington State's Natural Death Act permits adults to voluntarily make a written directive that life sustaining procedures (the definition of which does not mention artificial nutrition nor hydration) be withheld or withdrawn when the individual is in a terminal condition. The written

### CONTROL YOUR OWN HEALTH-CARE DECISIONS VOTE YES ON I-119

I-119 calls upon the health-care system to let people make their own decisions. It is supported by citizens from all walks of life, including hundreds of clergy, doctors, nurses, and seniors. I-119 has been reviewed and endorsed by the Board of Trustees of the Seattle-King County Bar Association. Call (206) 624-2776.

## Rebuttal of Statement against

I-119 protects your right to decide. Many hospitals and nursing homes refuse to remove artificial feeding tubes from terminal patients, even those who have Living Wills.

Safeguards include: • only conscious, mentally competent terminal patients may request aid-in-dying • limited to adults • two independent witnesses must sign • two licensed physicians • entirely voluntary for patients, doctors, and hospitals.

Cancer and AIDS patients, and others with terminal conditions, should be permitted their own decisions at the end of life.

### Voters Pamphlet Statement Prepared by:

REVEREND DALE TURNER, Interfaith Clergy for Yes on I-119; JUDGE ROBERT W. WINSOR, Retired, WA Citizens for Death with Dignity; LINDA GROMKO, M.D., Physicians for Yes on I-119.

Advisory Committee: HILKE FABER, Washington State Nursing Home Resident Council; REVEREND DR. BRUCE G. PARKER, United Methodist Church - Pacific Northwest Annual Conference; NANCY S. CAMPBELL, Northwest AIDS Foundation; RABBI EARL S. STARR, Interfaith Clergy for Yes on I-119; WILLIAM O. ROBERTSON, M.D., Physicians for Yes on I-119.

authorization **must** be witnessed by two persons and is revocable at any time. Two physicians must verify that the individual is in a terminal condition before there can be a withholding or withdrawal of medical, surgical, or other means to sustain or prolong life. Furthermore, there must be a medical conclusion that death is imminent. Persons who comply with an individual's written authorization are protected from civil or criminal responsibility for those acts. Mercy killings, however, are not authorized.

## The effect of Initiative Measure 119, if approved into law:

Adults would continue to be authorized to voluntarily make a written directive that life sustaining procedures be withheld or withdrawn when the individual is in a terminal condition. However, what is considered to be a terminal condition would be expanded to include any terminal condition which would irreversibly result in death within six months or when there is no reasonable probability of recov-

ery from an irreversible coma or persistent vegetative state. The withdrawal or withholding of life sustaining procedures would specifically include the artificial administration of nutrition and hydration.

Adults in a terminal condition would also be authorized to make a voluntary written directive affirmatively asking for "aid-in-dying" when in a terminal condition, and the patient must be conscious and mentally competent when service is provided. In accord with that patient directive a physician could act to end their life in a "dignified, painless, and humane manner." The prohibition against mercy killings would be retained but "aid-in-dying" under the act would be permitted.

No physician would be required to provide aid-in-dying nor would a health facility be required to permit "aid-in-dying" within its facility. Licensed medical personnel acting in accordance with patient directives for withholding or withdrawing of life sustaining procedures, and physicians providing aid-in-dying, would be protected from civil and criminal responsibility for those acts.

## Statement against

### LEGALIZES HOMICIDE

Initiative 119 radically changes the homicide laws in Washington. Calling it "aid-in-dying", I-119 allows doctors to kill their patients when they are diagnosed with only six months to live.

Why would Washington want to be the only place in the world where doctors could legally kill dying patients? Proponents want you to believe it's to care for dying people. But I-119 pushes caring aside in favor of killing.

### WE DON'T NEED I-119

Washington laws already allow you to choose to turn off life-extending machines, like respirators. The law already allows dying people to have as much medication as they need to be free from pain. Our laws must make sure everyone gets the quality care they need. We should never ask our doctors to kill.

### I-119 HAS NO SAFEGUARDS

No safeguards for depressed persons who in a moment of despair ask for a lethal injection.

No safeguards to protect vulnerable people from being pressured into assisted suicide because they are a burden on others.

No safeguards to stop someone from ending their life only because they have no money for health care.

No safeguards for patients who are misdiagnosed as terminal and then are mistakenly killed.

No safeguards for families who find that a loved one has been killed without their knowledge.

## CARING NOT KILLING

We should not kill dying people nor prolong their pain and suffering with life-extending machines. We should give them all of our care and compassion.

Vote NO on Initiative 119.

For more information, call Washington Physicians Against I-119: (206) 462-9668.

## Rebuttal of Statement for

Living Wills exist today for those who choose to discontinue life-extending procedures. Proponents of I-119 are simply trying to frighten people into accepting their solution of killing as a way to relieve pain and suffering.

I-119 protects the doctor who takes your life, but has no safeguards for you.

Make your choice known by turning down this careless and dangerous law.

Vote NO on I-119!

### Voters Pamphlet Statement Prepared by:

JAMES E. WEST, State Senator; JOHN MOYER, M.D., State Representative; MARGARITA PRENTICE, R.N., State Representative.

Advisory Committee: JAMES KILDUFF, M.D., President, Washington State Medical Association; KARLA ROWE, R.N., President, Washington State Hospice Organization; RAYMOND HUNTHAUSEN, Archbishop, Archdiocese of Seattle; ESTHER STOHL, President, Seniors Educating Seniors; STEVE LARGENT, former Seahawk & concerned citizen.



## COMPLETE TEXT OF Referendum Bill 42 (con't.)

this act are each added to chapter 38.52 RCW.

**NEW SECTION. Sec. 17.** Sections 1 through 6 and 9 through 16 of this act shall be submitted to the people for their adoption and ratification, or rejection, at the next succeeding general election to be held in this state, in accordance with Article II, section 1 of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof. The ballot title for this act shall be: "Shall enhanced 911 emergency telephone dialing be provided throughout the state and be funded by a tax on telephone lines?"



## COMPLETE TEXT OF Initiative Measure 119

AN ACT Relating to the natural death act; and amending RCW 70.122.010, 70.122.020, 70.122.030, 70.122.040, 70.122.050, 70.122.060, 70.122.070, 70.122.080, 70.122.090, 70.122.100, and 70.122.900.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

**Sec. 1.** Section 2, chapter 112, Laws of 1979 and RCW 70.122.010 are each amended to read as follows:

The ~~(legislature)~~ people find~~(s)~~ that adult persons have the fundamental right to control the decisions relating to the rendering of their own medical care, including the decision to have all life-sustaining procedures withheld or withdrawn in instances of a terminal condition, and including the right to death with dignity through voluntary aid-in-dying if suffering from a terminal condition.

The ~~(legislature)~~ people further find~~(s)~~ that modern medical technology has made possible the artificial prolongation of human life beyond natural limits.

The ~~(legislature)~~ people further find~~(s)~~ that, in the interest of protecting individual autonomy, such prolongation of life for persons with a terminal condition may cause loss of patient dignity, and unnecessary pain and suffering, while providing nothing medically necessary or beneficial to the patient.

The ~~(legislature)~~ people further find~~(s)~~ that there exists considerable uncertainty in the medical and legal professions as to the legality of terminating the use or application of life-

sustaining procedures where the patient has voluntarily and in sound mind evidenced a desire that such procedures be withheld or withdrawn.

The people further find that existing law does not allow willing physicians to render aid-in-dying to qualified patients who request it.

In recognition of the dignity and privacy which patients have a right to expect, the ~~(legislature)~~ people hereby declare~~(s)~~ that the laws of the state of Washington shall recognize the right of an adult person to make a written directive instructing such person's physician to withhold or withdraw life-sustaining procedures in the event of a terminal condition, and/or to request and receive aid-in-dying under the provisions of this chapter.

**Sec. 2.** Section 3, chapter 112, Laws of 1979 and RCW 70.122.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions contained in this section shall apply throughout this chapter.

(1) "Attending physician" means the physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.

(2) "Directive" means a written document voluntarily executed by the declarer in accordance with the requirements of RCW 70.122.030.

(3) "Health facility" means a hospital as defined in RCW ~~(70.38.020(7) or)~~ 70.41.020(2), a nursing home as defined in RCW ~~(70.38.020(8))~~ 18.51.010, or a home health agency or hospice agency as defined in RCW 70.126.010.

(4) "Life-sustaining procedure" means any medical or surgical procedure or intervention which utilizes mechanical or other artificial means to sustain, restore, or supplant a vital function, which, when applied to a qualified patient, would serve only to artificially prolong the moment of death ~~(and where, in the judgment of the attending physician, death is imminent whether or not such procedures are utilized).~~ "Life-sustaining procedure" includes, but is not limited to, cardiac resuscitation, respiratory support, and artificially administered nutrition and hydration, but shall not include the administration of medication to relieve pain or the performance of any medical procedure deemed necessary to alleviate pain.

(5) "Physician" means a person licensed under chapters 18.71 or 18.57 RCW.

(6) "Qualified patient" means a patient diagnosed and certified in writing to be afflicted with a terminal condition by two physicians one of whom shall be the attending physician, who have personally examined the patient.

(7) "Terminal condition" means an incurable ~~(condition caused by injury, disease, or illness, which, regardless of the application of life-sustaining procedures, would within reasonable medical judgment, produce death, and where the application of life-sustaining procedures serve only to postpone the moment of death of the patient.)~~ or irreversible condition which, in the written opinion of two physicians



**COMPLETE TEXT OF  
Initiative Measure 119  
(con't.)**

having examined the patient and exercising reasonable medical judgment, will result in death within six months, or a condition in which the patient has been determined in writing by two physicians as having no reasonable probability of recovery from an irreversible coma or persistent vegetative state.

(8) "Adult person" means a person attaining the age of majority as defined in RCW 26.28.010 and 26.28.015.

(9) "Aid-in-dying" means aid in the form of a medical service provided in person by a physician that will end the life of a conscious and mentally competent qualified patient in a dignified, painless and humane manner, when requested voluntarily by the patient through a written directive in accordance with this chapter at the time the medical service is to be provided.

**Sec. 3.** Section 4, chapter 112, Laws of 1979 and RCW 70.122.030 are each amended to read as follows:

(1) Any adult person may execute at any time a directive directing the withholding or withdrawal of life-sustaining procedures and/or requesting the provision of aid-in-dying when in a terminal condition. The directive shall be signed by the declarer in the presence of two witnesses not related to the declarer by blood or marriage and who would not be entitled to any portion of the estate of the declarer upon declarer's decease under any will of the declarer or codicil thereto then existing or, at the time of the directive, by operation of law then existing. In addition, a witness to a directive shall not be the attending physician, an employee of the attending physician or a health facility in which the declarer is a patient, or any person who has a claim against any portion of the estate of the declarer upon declarer's decease at the time of the execution of the directive. The directive, or a copy thereof, shall be made part of the patient's medical records retained by the attending physician, a copy of which shall be forwarded to the health facility upon the withdrawal of life-sustaining procedures, and/or provision of aid-in-dying. No person shall be required to execute a directive in accordance with this chapter. Any person who has not executed such a directive is ineligible for aid-in-dying under any circumstances. The directive shall be essentially in the following form, but in addition may include other specific directions:

**DIRECTIVE TO PHYSICIANS**

Directive made this \_\_\_\_ day of \_\_\_\_ (month, year).

I \_\_\_\_\_, being of sound mind, willfully, and voluntarily make known my desire that my life shall not be artificially prolonged under the circumstances set forth below, and do hereby declare that:

(a) If at any time I should have an incurable injury, disease,

or illness certified to be a terminal condition by two physicians, and where the application of life-sustaining procedures would serve only to artificially prolong the moment of my death ~~(and where my physician determines that my death is imminent whether or not life-sustaining procedures are utilized).~~

Declarant must initial one or both of the following:

\_\_\_ I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally.

\_\_\_ I direct that upon my request my physician provide aid-in-dying so that I might die in a dignified, painless and humane manner.

(b) In the absence of my ability to give directions regarding the use of such life-sustaining procedures, such as while in an irreversible coma or persistent vegetative state, it is my intention that this directive shall be honored by my family and physician(s) as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences of such refusal.

(c) If I have been diagnosed as pregnant and that diagnosis is known to my physician, this directive shall have no force or effect during the course of my pregnancy.

(d) I understand the full import of this directive and I am emotionally and mentally competent to make this directive.

(e) I understand that I may add to or delete from or otherwise change the wording of this directive before I sign it, and that I may revoke this directive at any time.

Signed \_\_\_\_\_

City, County and State of Residence.

The declarer has been personally known to me and I believe him or her to be of sound mind.

Witness \_\_\_\_\_

Witness \_\_\_\_\_

(2) Prior to effectuating a directive the diagnosis of a terminal condition by two physicians shall be verified in writing, attached to the directive, and made a permanent part of the patient's medical records.

(3) Similar directives to physicians lawfully executed in other states shall be recognized within Washington state as having the same authority as in the state where executed.

**Sec. 4.** Section 5, chapter 112, Laws of 1979 and RCW 70.122.040 are each amended to read as follows:

(1) A directive may be revoked at any time by the declarer, without regard to declarer's mental state or competency, by any of the following methods:

(a) By being canceled, defaced, obliterated, burned, torn, or otherwise destroyed by the declarer or by some person in declarer's presence and by declarer's direction.

(b) By a written revocation of the declarer expressing declarer's intent to revoke, signed, and dated by the declarer. Such revocation shall become effective only upon communication to the attending physician by the declarer or by a person acting on behalf of the declarer. The attending



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physician shall record in the patient's medical record the time and date when said physician received notification of the written revocation.

(c) By a verbal expression by the declarer of declarer's intent to revoke the directive. Such revocation shall become effective only upon communication to the attending physician by the declarer or by a person acting on behalf of the declarer. The attending physician shall record in the patient's medical record the time, date, and place of the revocation and the time, date, and place, if different, of when said physician received notification of the revocation.

(2) There shall be no criminal, civil, or administrative liability on the part of any person for failure to act upon a revocation made pursuant to this section unless that person has actual or constructive knowledge of the revocation.

(3) If the declarer becomes comatose or is rendered incapable of communicating with the attending physician, the directive shall remain in effect for the duration of the comatose condition or until such time as the declarer's condition renders declarer able to communicate with the attending physician.

**Sec. 5.** Section 6, chapter 112, Laws of 1979 and RCW 70.122.050 are each amended to read as follows:

No physician or health facility which, acting in good faith in accordance with the requirements of this chapter, causes the withholding or withdrawal of life-sustaining procedures from a qualified patient, shall be subject to civil liability therefrom. No licensed health personnel, acting under the direction of a physician, who participates in good faith in the withholding or withdrawal of life-sustaining procedures in accordance with the provisions of this chapter shall be subject to any civil liability. No physician, or licensed health personnel acting under the direction of a physician, or health facility ethics committee member who participates in good faith in the withholding or withdrawal of life-sustaining procedures and no physician who provides aid-in-dying to a qualified patient in accordance with the provisions of this chapter shall be subject to prosecution for or be guilty of any criminal act or of unprofessional conduct.

**Sec. 6.** Section 7, chapter 112, Laws of 1979 and RCW 70.122.060 are each amended as follows:

(1) Prior to effectuating a withholding or withdrawal of life-sustaining procedures from or provision of aid-in-dying to a qualified patient pursuant to the directive, the attending physician shall make a reasonable effort to determine that the directive complies with RCW 70.122.030 and, if the patient is mentally competent, that the directive and all steps proposed by the attending physician to be undertaken are

currently in accord with the desires of the qualified patient.

(2) The directive shall be conclusively presumed, unless revoked, to be the directions of the patient regarding the withholding or withdrawal of life-sustaining procedures and/or the provision of aid-in-dying. No physician, and no licensed health personnel acting in good faith under the direction of a physician, shall be criminally or civilly liable for failing to effectuate the directive of the qualified patient pursuant to this subsection, and no health facility may be required to permit the provision of aid-in-dying within its facility. If the physician or health care facility refuses to effectuate the directive, such physician or facility shall make a good faith effort to transfer the qualified patient to another physician who will effectuate the directive of the qualified patient or to another facility.

**Sec. 7.** Section 8, chapter 112, Laws of 1979 and RCW 70.122.070 are each amended to read as follows:

(1) The withholding or withdrawal of life-sustaining procedures from or the provision of aid-in-dying to a qualified patient pursuant to the patient's directive in accordance with the provisions of this chapter shall not, for any purpose, constitute a suicide.

(2) The making of a directive pursuant to RCW 70.122.030 shall not restrict, inhibit, or impair in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining procedures from or the provision of aid-in-dying to an insured qualified patient, notwithstanding any term of the policy to the contrary.

(3) No physician, health facility, or other health provider, and no health service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital service plan, shall require any person to execute a directive as a condition for being insured for, or receiving, health care services.

**Sec. 8.** Section 10, chapter 112, Laws of 1979 and RCW 70.122.080 are each amended to read as follows:

The act of withholding or withdrawing life-sustaining procedures or providing aid-in-dying, when done pursuant to a directive described in RCW 70.122.030 and which causes the death of the declarer, shall not be construed to be an intervening force or to affect the chain of proximate cause between the conduct of any person that placed the declarer in a terminal condition and the death of the declarer.

**Sec. 9.** Section 9, chapter 112, Laws of 1979 and RCW 70.122.090 are each amended to read as follows:

Any person who willfully conceals, cancels, defaces, obliterates, or damages the directive of another without such declarer's consent shall be guilty of a gross misdemeanor. Any person who falsifies or forges the directive of another or willfully conceals or withholds personal knowledge of a



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revocation as provided in RCW 70.122.040, with the intent to cause a withholding or withdrawal of life-sustaining procedures or the provision of aid-in-dying contrary to the wishes of the declarer and thereby, because of any such act, directly causes life-sustaining procedures to be withheld or withdrawn or aid-in-dying to be provided and death to thereby be hastened, shall be subject to prosecution for murder in the first degree as defined in RCW 9A.32.030.

**Sec. 10.** Section 11, chapter 112, Laws of 1979 and RCW 70.122.100 are each amended to read as follows:

Nothing in this chapter shall be construed to condone, authorize, or approve mercy killing, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying and to permit death with dignity through the provision of aid-in-dying only by a physician when voluntarily requested in writing as provided in this chapter by a conscious and mentally competent qualified patient at the time aid-in-dying is to be provided.

**Sec. 11.** Section 1, chapter 112, Laws of 1979 and RCW 70.122.900 are each amended to read as follows:

This act shall be known and may be cited as the "~~(Natural)~~ Death With Dignity Act."

**NEW SECTION, Sec. 12.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.



## COMPLETE TEXT OF Initiative Measure 120

AN ACT Relating to reproductive privacy; adding new sections to chapter 9.02 RCW; repealing RCW 9.02.010, 9.02.020, 9.02.030, 9.02.040, 9.02.060, 9.02.070, 9.02.080, and 9.02.090; and prescribing penalties.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

**NEW SECTION, Sec. 1.** The sovereign people hereby declare that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions.

Accordingly, it is the public policy of the state of

Washington that:

(1) Every individual has the fundamental right to choose or refuse birth control;

(2) Every woman has the fundamental right to choose or refuse to have an abortion, except as specifically limited by this act;

(3) Except as specifically permitted by this act, the state shall not deny or interfere with a woman's fundamental right to choose or refuse to have an abortion; and

(4) The state shall not discriminate against the exercise of these rights in the regulation or provision of benefits, facilities, services, or information.

**NEW SECTION, Sec. 2.** The state may not deny or interfere with a woman's right to choose to have an abortion prior to viability of the fetus, or to protect her life or health.

A physician may terminate and a health care provider may assist a physician in terminating a pregnancy as permitted by this section.

**NEW SECTION, Sec. 3.** Unless authorized by section 2 of this act, any person who performs an abortion on another person shall be guilty of a class C felony punishable under chapter 9A.20 RCW.

**NEW SECTION, Sec. 4.** The good faith judgment of a physician as to viability of the fetus or as to the risk to life or health of a woman and the good faith judgment of a health care provider as to the duration of pregnancy shall be a defense in any proceeding in which a violation of this chapter is an issue.

**NEW SECTION, Sec. 5.** Any regulation promulgated by the state relating to abortion shall be valid only if:

(1) The regulation is medically necessary to protect the life or health of the woman terminating her pregnancy,

(2) The regulation is consistent with established medical practice, and

(3) Of the available alternatives, the regulation imposes the least restrictions on the woman's right to have an abortion as defined by this act.

**NEW SECTION, Sec. 6.** No person or private medical facility may be required by law or contract in any circumstances to participate in the performance of an abortion if such person or private medical facility objects to so doing. No person may be discriminated against in employment or professional privileges because of the person's participation or refusal to participate in the termination of a pregnancy.

**NEW SECTION, Sec. 7.** If the state provides, directly or by contract, maternity care benefits, services, or information to women through any program administered or funded in whole or in part by the state, the state shall also provide women otherwise eligible for any such program with substantially equivalent benefits, services, or information to