PROPOSED LEGISLATIVE MANDATE TO THE SOUTH DAKOTA DEPARTMENT OF HEALTH

SUBMITTED TO: The Government Operations and Audit Committee

PURPOSE: To Ensure Informed Consent, Protect Patient Autonomy, Enforce Transparency in Hospital Admission and Discharge Procedures, and a South Dakota Department of Health Notification by providing a one-page front page disclosure on admission and discharge paperwork.

SECTION 1: EHR ALGORITHM AND CARE COORDINATION TRANSPARENCY NOTICE ON PAGE 1 OF THE ADMISSION FORM

To prevent predatory- cost saving practices, page 1 of all admission forms would feature a bold, uniform disclosure must read as follows:

NOTICE OF AUTOMATED HEALTH MONITORING AND RIGHT TO REFUSE CARE CONSULTATION

"Please be advised that this facility utilizes automated Electronic Health Record tracking algorithms. If a patient possesses a history of advanced or complex illness and experiences a hospital readmission, this algorithm **automatically triggers a backend electronic alert. This alert dispatches a Care Coordination, Palliative, or Hospice Liaison Team to the patient's bedside to suggest comfort care protocols. PATIENTS AND THEIR DESIGNATED HEALTHCARE PROXIES POSSESS THE ABSOLUTE LEGAL RIGHT TO FLATLY REFUSE THIS TEAMS VISIT, REFUSE THEIR CONSULTATION, AND BAN THEM FROM EDITING OR INTERACTING WITH THE PATIENT'S ACTIVE MEDICAL CHART."**

SECTION 2: MANDATORY TERMINAL DIAGNOSIS DISCLOSURE OF THE "THIRD CHOICE" END-OF- LIFE TRACK

<u>If you have received a terminal medical diagnosis, under the federal and state law, you have the absolute right to choose how your medical care and insurance benefits proceed from this point forward. You are NOT required to choose hospice.</u>

The South Dakota Department of Health would amend administrative rules to mandate that all licensed acute care hospitals include a standardized, prominent, one page "THIRD CHOICE PATIENT AUTONOMY DISCLOSURE" ***<u>within all standard admission and discharge packets.</u>***

- **THE RIGHT TO REFUSE TERMINAL INTERVENTIONS: Patients retain the absolute legal right to reject invasive, life-prolonging or preventative treatments for a terminal diagnosis (e.g. chemotherapy, ventilators, or surgery)**
- **THE RIGHT TO MAINTAIN THEIR STANDARD MEDICARE AND CHRONIC MEDICATIONS: Choosing to forego terminal treatments does not legally or financially require enrollment in hospice. Patients have the right to remain on traditional Medicare or private Insurance, ensuring that their daily, life-sustaining maintenance medications for unrelated chronic conditions (e.g., heart, blood pressure, or kidney medications) are fully covered, billed normally, and legally protected from forced withdrawal.**
- **THE RIGHT TO ATTENDING TEAM SYMPTOM MANAGEMENT: Patients have the right to receive pain and symptom control, including high dose opioids and sedatives, if needed, managed directly under standard billing.**

SECTION 3: PROPOSED HOSPICE BENEFIT DISCLOSURE TO ENSURE TRANSPARENCY

TRANSFER OF MEDICAL DISCRETION:

- **THE FACT: Clinical control shifts away from your independent physicians.**

TECHNICAL REFERENCES

- **PART D LOCKDOWN: Enforced under federal CMS (Centers for Medicare & Medicaid Services) Hospice Prior Authorization Guidance. Triggers automatic blocks to prevent duplicate billing.**
- **EHR ALGORITHMS: Deployed under federal CMS. Promoting interoperability standards. Software scores readmission risks, triggering automatic consultations.**

CITIZEN DISCLAIMER

This proposal was developed independently by myself, Gwen Meyerink, a private South Dakota citizen.

It is submitted from a layperson's perspective, to highlight regulatory and transparency gaps.

It is an experiential framework presented for committee perusal, legal review, and necessary committee revision.

Misconceptions on these proposed mandates for the SDDOH

This is not an attack on the Hospice Enrollment option, but a fight against medical fraud and predatory omission that strip's citizens of their standard Medicare entitlements by not providing easily accessible informed consent and transparency.

- **PRECEDENTS FOR MANDATED FORMS: States frequently force hospitals to use specific uniform consumer-protection forms. For example, many state department of health have mandated specific disclosures regarding breast cancer treatment alternatives, or standardized MOLST/POLST paperwork.**

- **THE REGULATORY RIGHT: The Commissioner or Secretary of Health can issue an administrative rule change under the state's hospital code. This would state that for a discharge to be legally valid, the patient must be presented with an explicit, standardized disclosure detailing their right to reject terminal treatment while maintaining the standard insurance and medications, if they are given a terminal diagnosis.**

- **Placing a single, pre-printed information sheet on Page 1 will not be a burden, it is standard consumer transparency.**

- **No laws are being changed. It will be using state licensure to force hospitals to disclose existing federal Medicare rights that are currently hidden from patients.**

- **The Department of Health would provide a static, standardized one page form so this will not add any extra mandatory paperwork to the case managers or doctors.**

- **While existing federal forms cover a general 'right to refuse hospital discharge', they completely hide the choice regarding terminal illness pathways. The federal form tells you that you have a right to choose where you receive care, but the follow-up discharge packet explicitly names hospice as the only active recommendation. This creates a severe default bias. The patient cannot give informed consent to a recommendation when the baseline alternative- staying on standard Medicare to manage the disease- is omitted entirely from the written record.**

- **This proposal does not interfere with a doctor's clinical recommendation. What these mandates would do is ensure that the patient understands the structural reality of that choice. When a clinical recommendation carries major insurance consequences – such as waiving standard Medicare payments for terminal treatments – the patient has a right to see that trade-off in writing. This protects the doctor-patient relationship by ensuring the patient is a fully informed participant, not a clueless observer.**