

Honolulu, Hawaii

MAR 24 2023

RE: H.B. No. 650
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committees on Health and Human Services and Commerce and Consumer Protection, to which was referred H.B. No. 650, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

beg leave to report as follows:

The purpose and intent of this measure is to amend the Our Care, Our Choice Act to:

- (1) Authorize advanced practice registered nurses to practice medical-aid-in-dying in accordance with their scope of practice and prescribing authority;
- (2) Authorize advanced practice registered nurses with a psychiatric or clinical nurse specialization, in addition to psychiatrists, psychologists, and clinical social workers, to provide counseling to a qualified patient;
- (3) Reduce from twenty to five days, the mandatory waiting period between the two oral requests required for a qualified patient to obtain a prescription for medication that may be self-administered to end the patient's life in accordance with applicable state law; and



- (4) Waive the mandatory waiting period for terminally ill qualified patients who are not expected to survive the mandatory waiting period.

Your Committees received testimony in support of this measure from the Department of Health; Board of Nursing; Stonewall Caucus of the Democratic Party of Hawai'i; Kūpuna Caucus of the Democratic Party of Hawai'i; Compassion & Choices; Hawaii Society of Clinical Oncology; Hawai'i Association of Professional Nurses; The Hawaiian Islands Association for Marriage and Family Therapy; Hawai'i - American Nurses Association; Rainbow Family 808.com Inc.; Hawai'i Pacific Health; Hawai'i Psychological Association; and fifty-four individuals. Your Committees received testimony in opposition to this measure from Not Dead Yet, Hawaii Family Forum, and three individuals. Your Committees received comments on this measure from the Hawai'i State Center for Nursing.

Your Committees find that the State enacted the Our Care, Our Choice Act in 2018, to provide certain terminally ill individuals the option to receive prescription medication to allow them to die in a peaceful, humane, and dignified manner. However, many individuals experience difficulty in receiving this compassionate end-of-life care due to various barriers, including the lack of access to health care providers who can administer medical-aid-in-dying. Furthermore, according to testimony, during the past four years, twenty-seven percent of terminally ill patients in the State who made oral requests for a prescription died during the twenty-day mandatory waiting period, which is the longest waiting period among all states that have authorized medical-aid-in-dying. This measure addresses these barriers by authorizing additional medical practitioners to facilitate medical-aid-in-dying and reducing the mandatory waiting period.

Your Committees acknowledge the concerns raised in testimony that marriage and family therapists, identified by the United States Health Resources and Services Administration as one of the five core mental health professions, should also be authorized to provide counseling to determine whether the patient is capable and does not appear to be suffering from undertreatment or nontreatment of conditions that may interfere with the patient's ability to make an informed decision. Your Committees also acknowledge the request for clarification that advanced practice



registered nurses authorized to provide counseling services pursuant to this measure also be required to have training in providing mental health services.

Accordingly, your Committees have amended this measure by:

- (1) Amending the definition of "counseling" to include consultations provided by:
 - (A) An advanced practice registered nurse or clinical nurse specialist licensed under chapter 457, Hawaii Revised Statutes, with psychiatric or mental health training; and
 - (B) A marriage and family therapist licensed pursuant to chapter 451J, Hawaii Revised Statutes;
- (2) Clarifying that, if the qualified patient's attending provider attests that the qualified patient will, within a reasonable medical judgment, die within five days after making the initial oral request, the mandatory five-day waiting period shall be waived;
- (3) Inserting language clarifying that if any provision of this the measure, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the measure that can be given effect without the invalid provision or application, to the end that the provisions of the measure are severable;
- (4) Amending section 1 to reflect its amended purpose; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Health and Human Services and Commerce and Consumer Protection that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 650, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 650, H.D. 2, S.D. 1, and be referred to your Committee on Judiciary.



Respectfully submitted on
behalf of the members of the
Committees on Health and Human
Services and Commerce and
Consumer Protection,



JARRETT KEOHOKALOLE, Chair



JOY A. SAN BUENAVENTURA, Chair



