

STATE OF HAWAII
DEPARTMENT OF HEALTH
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Testimony COMMENTING on SB2680
RELATING TO HEALTH.

SENATOR JARRETT KEOHOKALOOLE, CHAIR
SENATE COMMITTEE ON HEALTH

Hearing Date: Monday 7, 2022

Room Number: Videoconference

1 **Fiscal Implications:** N/A.

2 **Department Testimony:** The role of the Department of Health (DOH) for chapter 327L,
3 Hawaii Revised Statutes, or the "Our Care, Our Choice Act," is ministerial in function, which is
4 to say that DOH's primary responsibility is the collection and dissemination of forms, data, and
5 reports in aggregate, as required by law. DOH is compelled to collect data only on qualified
6 patients who have followed through on every legally required step. As a result, DOH does not
7 quantify the number of patients who expired prior to executing all the steps, however the
8 anecdotal input from healthcare providers has been very consistent, that: 1) patients in rural
9 communities struggle to find a participating provider (attending, consulting, and mental health),
10 and 2) patients with grave health prognoses expire during the waiting period, often with
11 tremendous suffering.

12 The department is in the process of evaluating forms for the collection period that ended on
13 December 31, 2021. There are an estimated 70 patients who completed the medical aid in dying
14 request process. In the 2020 annual report, there were 37 patients who qualified of which 32
15 ingested the medication causing their death. This is a consistent upward trend since enactment in
16 2019.

17 **Offered Amendments:** DOH recommends an amendment to strengthen the non-disclosure
18 protections of this Act due to recent inquiries from law firms requesting information on
19 participants that are not explicitly protected.

1 SECTION . Section 327L-14, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) The department shall annually collect and review all
4 information submitted pursuant to this chapter. The information
5 collected shall be confidential and shall be collected in such a
6 manner that protects the privacy of all qualified patients, the
7 qualified patients' family, and any attending provider,
8 consulting provider, or counselor involved with a qualified
9 patient pursuant to this chapter. Information collected
10 pursuant to this [~~section~~] chapter by the department or retained
11 as the result of incidental or routine communication with
12 providers and patients shall not be disclosed, discoverable, or
13 compelled to be produced in any civil, criminal, administrative,
14 or other proceeding."

15



ALOHACARE

To: The Honorable Jarrett Keohokalole, Chair
The Honorable Rosalyn H. Baker, Vice-Chair
Committee on Health

From: Peggy Mierzwa, Government Affairs, AlohaCare

Hearing: Monday, February 7, 2022

RE: **SB2680 Relating to Health - Support**

AlohaCare appreciates the opportunity to provide testimony in **support of SB2680**. This measure will authorize Advanced Practice Registered Nurses (APRN), in addition to physicians, to practice medical aid in dying in accordance with their scope of practice and prescribing authority as well as authorize psychiatric mental health nurse practitioners and clinical nurse specialists, in addition to psychiatrists, psychologists, and clinical social workers, to provide counseling to a qualified patient. In addition to the changes for APRNs, this measure will also ease the waiting periods to better serve patients who are terminally ill in a timely manner.

Founded in 1994 by the community health centers, AlohaCare is a community-rooted, non-profit health plan serving 80,000 Medicaid and dual-eligible health plan members on all islands. We are the only health plan in Hawaii that exclusively serves Medicaid beneficiaries. Our mission is to serve individuals and communities in the true spirit of aloha by ensuring and advocating for access to quality health care for all. We believe that health is about supporting whole-person care.

Hawaii has struggled with a shortage of physicians for decades. This shortage means that in a variety of medical circumstances, residents, particularly those who reside on neighbor islands, are unable to access timely health care near their home, or even their home island. Addressing this shortage is not a one-solution approach. The Legislature has several measures before them this year ranging from scope of practice to telehealth bills that will help to increase patient's access to care.

This measure will increase patients' access to care by allowing APRNs to practice to the full scope of their licensure. It will give them the authority to prescribe as well as fully practice in alignment with their licensure allowances under the Our Care, Our Choice Act. APRNs can increase access to care. AlohaCare supports increasing equitable access to care through this measure for the residents of Hawaii. Our members and all residents need to have timely access to important health care and procedures.

We will continue to support allowing APRNs and other healthcare professionals to practice to the full scope of their licensure. We believe this approach helps to address gaps in care found throughout the state.

Mahalo for this opportunity to testify in **support of SB2680**.

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Call: 973-0712 • Toll-free: 1-877-973-0712 • Fax: 808-973-0726 • www.AlohaCare.org

Testimony of the Board of Nursing

**Before the
Senate Committee on Health
Monday, February 7, 2022
1:00 p.m.
Via Videoconference**

**On the following measure:
S.B. 2680, RELATING TO HEALTH**

Chair Keohokalole and Members of the Committee:

My name is Lee Ann Teshima, and I am the Executive Officer of the Board of Nursing (Board). The Board appreciates the intent and offers comments on this bill only with respect to advanced practice registered nurses (APRNs).

The purposes of this bill are to: (1) authorize APRNs, in addition to physicians, to practice medical aid in dying in accordance with their scope of practice and prescribing authority; (2) authorize psychiatric mental health nurse practitioners and clinical nurse specialists, in addition to psychiatrists, psychologists, and clinical social workers, to provide counseling to a qualified patient; (3) reduce the mandatory waiting period between oral requests from twenty days to fifteen days; and (4) waive the mandatory waiting period for those terminally ill individuals not expected to survive the mandatory waiting period.

The Board appreciates the bill's intent to authorize APRNs to practice medical aid in dying in accordance with their scope of practice and prescribing authority. APRNs are recognized as primary care providers who may practice independently based on their practice specialty. An APRN's education and training include, but are not limited to, a graduate-level degree in nursing and national certification that is specific to the APRN's practice specialty, in accordance with nationally recognized standards of practice.

The Board also appreciates that this bill's definition of "counseling" includes both a "psychiatric mental health nurse practitioner, or clinical nurse specialist" to consult with a patient to determine whether the patient is capable of making an informed decision regarding ending the patient's life. There are four categories of APRNs (nurse practitioner, clinical nurse specialist, certified nurse midwife and certified registered

Testimony of the Board of Nursing

S.B. 2680

Page 2 of 2

nurse anesthetist), and nurse practitioners or clinical nurse specialists whose practice specialty is in psychiatric mental health may provide consultative services in psychiatric mental health.

Thank you for the opportunity to testify on this bill.

Testimony of Sam Trad, Hawai'i State Director, Compassion & Choices
Supportive Testimony Regarding SB2680
Senate Committee on Health

Good morning Chair Keohokalole, Vice Chair Baker and Members of the Committee. My name is Sam Trad and I am the Hawai'i State Director for Compassion & Choices, the nation's oldest and largest nonprofit organization working to improve care, expand options and empower everyone to chart their own end-of-life journey.

Thank you for passing the Our Care, Our Choice Act, which has provided peace of mind to the terminally ill over the last three years it has been in effect; and thank you for your consideration of SB2680. We are here today and pleased to offer our support for these crucial amendments to the Our Care, Our Choice Act.

This legislation is based on the suggested amendments the Department of Health has made to the legislature. Just one year into implementation of the Hawai'i Our Care, Our Choice Act, the Department of Health conducted an analysis of the implementation of the law by soliciting input from the medical community. A subsequent report to the legislature¹ found that while compassionately implemented, some of the well intentioned regulatory requirements outlined in the Act are creating unintended barriers and unnecessary burdens in care. Coupled with the state's well-known severe physician shortage, which has only worsened with the COVID-19 pandemic²³ and is especially dire on neighbor islands,⁴⁵ these collective barriers have made it very difficult for terminally ill patients seeking to access medical aid in dying. Unfortunately, many individuals died with needless suffering while attempting to navigate the process. In fact, we know from local healthcare systems that at least 21 eligible patients who wanted the option

¹ Report to the Thirtieth Legislature, Our Care, Our Choice Act Annual Report, Reporting Period 2019, Hawai'i Department of Health. Accessed at:

<https://health.hawaii.gov/opppd/files/2020/06/2020-Annual-OCCOA-Report-1.pdf>

² University of Hawai'i System Annual Report on Findings from the Hawai'i Physician Workforce Assessment Project, November 2021. Accessed at: <https://www.ahec.hawaii.edu/workforce-page/>

³ Hawai'i doctor shortage worsens during pandemic, June 15, 2021. Accessed at: https://www.kitv.com/video/hawaii-doctor-shortage-worsens-during-pandemic/article_887db62f-c8ee-5f02-95b5-01d7102395b0.html

⁴ Hawai'i's doctor shortage has worsened after the COVID-19 pandemic, Jan 7, 2021. Accessed at: <https://www.khon2.com/coronavirus/hawaiis-doctor-shortage-has-worsened-after-covid-19-pandemic/>

⁵ Physician shortage takes a troubling turn for the worse, John A. Burns School of Medicine University of Hawai'i at Mānoa, September 10th, 2019. Accessed at: <https://jabsom.hawaii.edu/hawaii-doctor-shortage-takes-a-troubling-turn-for-the-worse/>

of medical aid in dying died during the mandatory waiting period, unable to have the peaceful end of life experience they wanted.⁶

Holding true to the intent of the Our Care, Our Choice Act - to ensure that all terminally ill individuals have access to the full range of end-of-life care options - the bill before you seeks to ensure eligible patients can access medical aid in dying by amending the law to:

- Reduce the current mandatory minimum 20 day waiting period between oral requests to 15 days.
- Allow the attending provider the authority to waive the mandatory minimum waiting period if the eligible patient is unlikely to survive the waiting period (the patient must still go through the qualifying process).
- Allow qualified Advanced Practice Registered Nurses (APRNs) to support patients in the option of medical aid in dying by acting as the attending provider, consulting provider and/or mental health counselor.

All of these amendments will reduce unnecessary burdens terminally ill Hawaiian residents face when trying to access medical aid in dying.

Expediting and/or reducing the mandatory minimum waiting period as they now do in Oregon, California and New Mexico

Hawai'i currently has the longest mandatory waiting period (20 days) between the first and second oral requests for medical aid in dying, of the 11 authorized U.S. jurisdictions. Hawai'i physicians have said that their eligible terminally ill patients are suffering terribly at the end of life and are not surviving the 20-day mandatory waiting period between oral requests.⁷ Internal data from Kaiser Hawai'i and Hawai'i Pacific Health show that a significant amount of eligible patients do not survive the long waiting period.

This experience matches what we have seen from data and experience throughout the other authorized jurisdictions which have less restrictive measures in place than currently exist in Hawai'i. In 2019, in response to the evidence compiled over 21 years of practice, the Oregon legislature amended its law in an attempt to find a better balance between safeguards intended to protect patients and access to medical aid in dying. The amended law (SB579) gives doctors the ability to waive the current mandatory minimum 15-day waiting period

⁶ Susan Amina, NP, Kaiser HI, OCOCA panel on 1.13.21; Michelle Cantillo R.N., Advance Care Planning Coordinator, HPH, OCOCA panel on 1.13.21.

⁷ 'Like a Christmas Present': Hawaii's Medical Aid in Dying Law Eased Patient's Anxiety, The Civil Beat, Jul 1, 2019. Accessed at: <https://www.civilbeat.org/2019/07/a-palpable-sense-of-relief-hawaiis-medical-aid-in-dying-law-eased-patients-anxiety/>

between the two required oral requests and to waive the 48-hour waiting period after the required written request before the prescription can be provided, if they determine and attest that the patient is likely to die while waiting.⁸ The similar amendment to the OCOCA before you now is a direct result of evidence and data in Hawai'i that clearly demonstrates the need for easier access for eligible terminally ill patients facing imminent death.⁹

Last year, California amended their waiting period from 15 days to 48 hours, because data from healthcare systems in California showed that approximately 30% of eligible patients who want medical aid in dying do not survive the minimum 15 day waiting period.¹⁰ Additionally, New Mexico's medical aid in dying law, which went into effect last year, only requires one written request and one 48 hour waiting period between when receiving and filling the prescription.¹¹

Expanding the Definition of Provider to include Advanced Practice Registered Nurses with Prescriptive Authority (APRN Rx)

Hawai'i is one of 25 states that give advanced practice registered nurses (APRNs) authority to independently carry out all medical acts consistent with their education and training, including prescribing all forms of medication, including controlled substances.¹² However, by not including APRNs within the definition of "provider," the Our Care, Our Choice Act unnecessarily prohibits APRNs from providing high quality health care and support to patients who want the option of medical aid in dying. Amending the law to explicitly allow APRNs to participate as providers under the Our Care, Our Choice Act is consistent with their scope of practice and would help address the disparity in access to participating providers, particularly in rural areas and neighboring islands. For example, Ron Meadow, who lived on the Big Island, was terminally ill and eligible for the Our Care, Our Choice Act, spent his final weeks searching for a physician who would support him in the option of medical aid in dying, so he could end his suffering. Sadly, by the time he found a physician it was too late and Ron died in pain in exactly the way he did not want. Allowing APRNs to support patients in medical aid in dying

⁸ Senate Bill 579, 80th Oregon Legislative Assembly--2019 Regular Session. Accessed at: <https://olis.oregonlegislature.gov/liz/2019R1/Downloads/MeasureDocument/SB579>

⁹ Report to the Thirty-First Legislature, Our Care, Our Choice Act Annual Report, Reporting Period 2020, Hawai'i Department of Health. Accessed at: <https://health.hawaii.gov/opppd/files/2021/06/2020-Annual-OCOCA-report-6.30.21.pdf>

¹⁰ Characterizing Kaiser Permanente Southern California's Experience With the California End of Life Option Act in the First Year of Implementation. JAMA Internal Medicine, H.Q. Nguyen, E.J. Gelman, T.A. Bush, J.S. Lee, M.H. Kanter (2018). Accessed at: <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2665731>

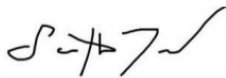
¹¹ Elizabeth Whitefield End of Life Options Act, Ch. 24, art. 7C NMSA 1978. Accessed at: <https://nmonesource.com/nmos/nmsa/en/item/4384/index.do#!b/a7C>

¹² American Association of Nurse Practitioners, 2021 Nurse Practitioner State Practice Environment. Accessed at: <https://storage.aanp.org/www/documents/advocacy/State-Practice-Environment.pdf>

will provide patients, like Ron, with more options to access this compassionate option. Additionally, other jurisdictions are recognizing that restricting the definition of “provider” to physicians for the purposes of medical aid in dying creates an unnecessary barrier to access. For example, in 2021 New Mexico passed aid in dying legislation authorizing APRNs to serve as either the attending or consulting provider.¹³

Every eligible patient who wants the peace of mind that the Our Care, Our Choice Act provides should be able to benefit from it no matter which island they live on. These smart amendments will remove barriers to patients, especially in rural areas and on neighboring islands, so that they can have the compassionate option of medical aid in dying. Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Trad', with a stylized flourish at the end.

Sam Trad
Hawai'i State Director
Compassion & Choices

¹³ Elizabeth Whitefield End of Life Options Act, Ch. 24, art. 7C NMSA 1978. Accessed at: <https://nmonesource.com/nmos/nmsa/en/item/4384/index.do#!b/a7C>



**Written Testimony Presented Before the
Senate Committee on Health**

Monday, February 7, 2022 at 1:00 PM

by

**Laura Reichhardt, MS, AGNP-C, APRN
Director, Hawai'i State Center for Nursing
University of Hawai'i at Mānoa**

Comments on SB 2680

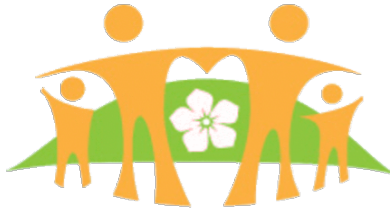
Chair Keohokalole, Vice Chair Baker, and members of the Senate Committee on Health, thank you for the opportunity for the Hawai'i State Center for Nursing to provide **comments on SB 2680 only as it pertains to Section 2** of this measure which, if enacted, would enable Advanced Practice Registered Nurses (APRNs) to participate as an attending, consulting, and counseling provider in the Our Care, Our Choice Program.

Advanced Practice Registered Nurses have had a 75% increase in the number of in-state APRNs since 2011. Nearly 1,300 licensed APRNs reside in Hawai'i. APRNs are noted in national research to be more likely to provide care to underserved people and communities including rural areas, urban areas, to women, and to Medicaid recipients or uninsured people (Buerhaus et al., 2014). Currently, 30% of Hawai'i's APRNs reside on a Neighbor Island which also approximates the percent of APRNs working in HSRA designated primary care shortage areas and medically underserved areas (Hawai'i State Center for Nursing, 2021).

Hawai'i adopted the national best practices for APRN regulation, the APRN Consensus Model (2008), which states that licensure, accreditation, and certification combined provide guidance on the APRN's scope of practice. APRNs include Nurse Practitioners, Clinical Nurse Specialists, Certified Nurse Midwives, and Certified Registered Nurse Anesthetists. APRNs are educated from accredited schools of nursing in one of the four roles and in at least one of six population foci: family/individual across the lifespan, adult-gerontology, pediatrics, neonatal, women's health/gender-related, or psych/mental health. An APRN may apply for licensure only upon achieving national certification in their educated role and population foci. Hawai'i law (§457-2.7) defines APRN scope of practice to include advanced assessment and the diagnosis, prescription, selection, and administration of therapeutic measures including over the counter drugs, legend drugs, and controlled substances within the APRN's role and specialty-appropriate education and certification. Hawai'i's laws for APRNs ensure public safety during patient care through authorized assessment, diagnosis, and prescriptive authority. APRNs have grown significantly in Hawai'i with APRNs providing care in all regions in the state where people live.

Thank you for the opportunity to provide this information as it relates to your decision making on this measure.

The mission of the Hawai'i State Center for Nursing is that through collaborative partnerships, the Center provides accurate nursing workforce data for planning, disseminates nursing knowledge to support excellence in practice and leadership development; promotes a diverse workforce; and advocates for sound health policy to serve the changing health care needs of the people of Hawai'i.



The Hawaiian Islands Association
for Marriage and Family Therapy
(HIAMFT)

We know systems.
We know relationships.
We know FAMILY MATTERS.

COMMITTEE ON HEALTH

Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair

Monday, February 7, 2022 – 1:00pm - - via videoconference
Testimony in Support of SB2680 RELATING TO HEALTH

The Hawaiian Islands Association for Marriage and Family Therapy (HIAMFT) strongly supports SB2680, which would give advanced practice registered nurses and psychiatric mental health nurse practitioners the authority to engage in certain medical aid in dying services. These services have been previously limited to physicians, psychiatrists, psychologists, and social workers.

While HIAMFT strongly supports this bill, we believe **it can be strengthened to further achieve the purpose and intent of Our Care, Our Choice legislation by adding Marriage and Family Therapists (MFTs) to the corps of healthcare professionals allowed to provide “counseling” services** outlined in Hawaii Revised Statutes section 321L-1 to determine if a patient is capable, and has received adequate treatment for depression or other conditions that may impact his or her ability to make informed aid-in-dying decisions.

Marriage and Family Therapists are one of five core mental health professions (along with psychiatrists, psychologists, social workers and advanced practice psychiatric nurses) identified by the Health Resources and Services Administration (HRSA) within the Department of Health and Human Services (HHS) of the US Government. Additional information can be obtained in *The Mental Health Workforce: A Primer* (April 20, 2018). They are trained to diagnose and treat mental health issues, such as but not limited to, anxiety, depression, substance abuse, alcoholism, relationship/marital problems, child-parent problems, ADD/ADHD, and schizophrenia.

Perhaps most germane to this measure, MFTs are specifically trained to attend to a patient’s primary relationship networks that may become resources for well-being. With a relational and systemic focus, MFTs use a perspective that considers the full context of a patient’s situation. This perspective is particularly important when working with critically serious issues like the intentional ending of one’s life.

Moreover, MFTs are specifically trained to understand and help patients discuss all aspects of family life and other interpersonal dynamics. In working with a dying patient, that person may be concerned about one or more family

members, pets, or others within their personal family "system." Therapy may represent a last opportunity for saying good-bye or the possibility of healing and forgiveness for both the dying patient and various family and/or other community members.

Accordingly, we ask that Marriage and Family Therapists be added to the professionals authorized to provide "counseling" services on page 4, line 14 of this bill as follows:

"Counseling" means one or more consultations, which may be provided through telehealth, as necessary between a psychiatrist licensed under chapter 453, psychologist licensed under chapter 465, [~~or~~] clinical social worker licensed pursuant to chapter 467E, psychiatric mental health nurse practitioner, marriage and family therapist licensed pursuant to chapter 451J, or clinical nurse specialist and a patient for the purpose of determining that the patient is capable, and that the patient does not appear to be suffering from undertreatment or nontreatment of depression or other conditions which may interfere with the patient's ability to make an informed decision pursuant to this chapter."

Thank you for the opportunity to provide strong support and suggested amendment for this important bill.

Sincerely,

A handwritten signature in black ink that reads "John Souza, Jr. LMFT, DMFT". The signature is written in a cursive style with a large, stylized initial "J".

Dr. John Souza, Jr., LMFT, DMFT, President
The Hawaiian Islands Association for Marriage and Family Therapy

SB-2680

Submitted on: 2/4/2022 2:47:33 PM

Testimony for HTH on 2/7/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
AUBREY HAWK	Individual	Support	Yes

Comments:

I am a resident of rural Hawaii Island and I strongly support SB2680. In my role as a volunteer patient navigator I try to help terminally ill patients seeking to use the Our Care, Our Choice Act. Too many of them--mostly poor, rural residents not affiliated with a major healthcare system, have been denied this legal end-of-life option. This is either because they cannot find a doctor willing to assist them, or because they cannot survive Hawaii's needlessly long mandatory minimum waiting period—the longest in the nation. Allowing qualified APRNs to serve their patients seeking to use OCOCA, and shortening the waiting period, would do much to mitigate this dire inequity in health care access.

**Written Testimony Presented Before the
Senate Committee on Health**

**Hearing: February 7, 2022 @1:00 PM
State Capitol, Via Videoconference**

By Hawai'i – American Nurses Association (Hawai'i-ANA)



SB2680 RELATING TO HEALTH

Chair Jarrett Keohokalole, Vice Chair Rosalyn H. Baker and members of the Senate Committee on Health, for this opportunity to provide testimony in strong support for SB 2680, Relating to Health. This bill seeks to explicitly authorize advanced practice registered nurses (APRNs) as attending providers and consulting providers capable of performing all necessary duties under the Our Care, Our Choice Act in accordance with their scope of practice and prescribing authority. This bill also seeks to reduce the mandatory waiting period between oral requests made by a terminally ill individual from twenty to fifteen days, and to allow an attending provider to waive the waiting period for terminally ill individuals not expected to survive the mandatory waiting period.

We are members of the American Nurses Association in Hawai'i (Hawai'i-ANA) who speak for over 15,000 Registered Nurses in Hawai'i caring for patients every day, throughout their lifespan, from birth through dying and death. We have supported the passing of the bill to enact this measure in the past, in our interest to provide choices and options to patients addressing end-of-life issues. We continue to support the Act as an option for both patients and providers, to consider in meeting the personal needs of the individual patient.

We believe the information provided by the State of Hawaii Department of Health regarding the use of this Act highlights the very real difficulties individuals in Hawaii are experiencing in meeting the established criteria and safeguards to ensure a secure, compassionate, and patient-centered end-of-life process. In particular patients on neighbor islands have great difficulty accessing a provider to participate in the prescribed process. Authorizing APRNs to practice medical aid in dying, in accordance with existing scope of practice and prescribing authority, will expand access for neighbor island patients who choose to avoid needless suffering in their final days of life.

In addition, the waiting period of 20 days is the longest in any state that has enacted such a law to regulate dying with dignity by individual choice. Patients have met all the requirements of the law to bring them to the point of ingesting the prescribed medication when they are required to wait another 20 days. Surely the provider of care along with the patient and the family can determine that the patient is not likely to survive that long, and therefore the waiting period

should be waived, again to provide greater mental ease and comfort to terminally ill individuals and their families.

We respectfully request that SB2680 pass out of this committee. Thank you for your continued support for measures that address the healthcare needs of our community.

Contact information for Hawaii – American Nurses Association

President: Katie Kemp, BAN, RN-BC
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Executive Director: Dr. Linda Beechinor, APRN-Rx, FNP-BC
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Hawai'i Psychological Association

For a Healthy Hawai'i

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COMMITTEE ON HEALTH

Senator Jarett Keohokalole, Chair

Senator Rosalyn H. Baker, Vice Chair

Monday, February 7, 2022 - 1:00pm - via videoconference

Testimony in Support of SB1823 RELATING TO HEALTH

Testimony in Support on SB2680 HEALTH

The Hawai'i Psychological Association (HPA) supports SB2680, which would give advanced practice registered nurses (APRNs) and psychiatric mental health nurse practitioners the authority to engage in certain medical aid in dying services, as well as reduce the waiting time for patients to be eligible for the program.

These services have been previously limited to physicians, psychiatrists, psychologists, and social workers. HPA takes the position that the counseling called for in this legislation is squarely within the scope of practice of APRNs. They do not need additional training to provide these services. APRNs are experienced counselors and understand medical issues.

Moreover, we also support giving authority to Marriage and Family Therapists to provide similar services under the definition of "counseling" in Hawaii Revised Statutes Section 3217L-1 – as they have specialized training in the relational aspects of a dying patient's family and community.

Finally, we believe this bill is extremely timely. There currently is a significant shortage of providers. This bill will increase the supply and access to services – particularly as demand increases with the aging baby boomer generation.

Thank you for the opportunity to provide input into this important bill.

Sincerely,

Raymond A Folen, Ph.D., ABPP.
Executive Director

SB-2680

Submitted on: 2/6/2022 10:40:22 AM

Testimony for HTH on 2/7/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Charles Miller	Testifying for Hawaii Society of Clinical Oncology	Support	No

Comments:

Dear Chair Keohokalole, Vice Chair Baker,

I'm a medical oncologist representing the Hawaii Society of Clinical Oncology, the largest organization of cancer specialists in the state and I also serve as Director of Kaiser Hawaii's Medical Aid in Dying (MAID) program. I have the most experience of any physician in the state with patients requesting MAID, and I'm writing to you today to urge you to support SB2680 which makes very necessary improvements to the Our Care, Our Choice Act. In my three years of seeing MAID patients, I have consulted on over 125 patients. For some patients the law works well, but for many eligible terminally ill patients the requirements of the law presents barriers that prevent them accessing the law even though they meet all of the requirements, causing them needless suffering. We have data from the State Department of Health, Kaiser Hawaii and Hawai'i Pacific Health, that over 30% of patients who requested MAID died of their underlying medical conditions before the required 20 day waiting period. I strongly believe that providers should be allowed to waive the waiting period for their patients if the patient meets all other requirements but is unlikely to survive 20 days. This is inexcusable and one of the problems that these amendments will address. Twenty days is the longest waiting period of any jurisdiction which support MAID and it should be shortened to at least no more than 15 days.

The other major obstacle to access to aid in dying is the growing shortage of physicians. This makes it very difficult to find the two doctors required to qualify for medical aid in dying, especially on neighbor islands. This bill has a solution to this problem: Advanced Practice Registered Nurses (APRNs), also known as Nurse Practitioners (NPs), are highly trained professionals helping to fill this gap in virtually all other areas of care. In fact, Hawai'i is one of 22 states that gives APRNs authority to independently carry out all medical acts consistent with their education and training, including prescribing all forms of medication. Yet as the law is written, APRNs are prohibited from helping in this most crucial area. The Our Care, Our Choice Act currently limits their scope of practice, preventing them from supporting their patients who want the option of medical aid in dying.

If even one qualified patient is forced to spend their final weeks in fear and pain, unable to access the law, then that is one patient too many. Please provide the needed relief to terminally ill Hawai'i residents and ensure everyone in the Aloha State is empowered to choose end-of-life care that reflects their values, priorities, and beliefs.

Sincerely,

Charles F. Miller, MD, FACP, FASCO

Hawaii Society of Clinical Oncology

Program Director, Kaiser Hawaii Aid In Dying

COMMITTEE ON HEALTH
Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair
Monday, February 7, 2022 – 1:00pm - - via videoconference

Testimony in Support of SB2680 RELATING TO HEALTH

The National Association of Social Workers – Hawai'i (NASW- HI) supports SB2680, giving psychiatric mental health nurse practitioners and clinical nurse specialists the authority to engage in certain medical aid in dying services, as well as reduce the waiting time for patients to be eligible for the program.

These services have been previously limited to physicians, psychiatrists, psychologists, and clinical social workers. NASW- HI supports the addition of qualified APRNs to the cadre of medical and mental health professionals to provide these services.

NASW-HI also would also like to see Licensed Marriage and Family Therapists added to the professionals authorized to provide “counseling” services in Hawaii Revised Statutes Section 3217L-1 – as they have specialized training in the relational aspects of a dying patient’s family and community.

Accordingly, we ask that Marriage and Family Therapists be added to the professionals authorized to provide “counseling” services on page 4, lines 13-14 of this bill as follows:

"Counseling" means one or more consultations, which may be provided through telehealth, as necessary between a psychiatrist licensed under chapter 453, psychologist licensed under chapter 465, [or] clinical social worker licensed pursuant to chapter 467E, psychiatric mental health nurse practitioner, marriage and family therapist licensed pursuant to chapter 451J, or a clinical nurse specialist and a patient for the purpose of determining that the patient is capable, and that the patient does not appear to be suffering from undertreatment or nontreatment of depression or other conditions which may interfere with the patient's ability to make an informed decision pursuant to this chapter."

There currently is a significant shortage of providers. As the baby boomer generation ages, provider shortages and access to care in this area will only exacerbate.

Thank you for the opportunity to provide this testimony in support.

Sincerely,

 MSW, LCSW

Sonja Bigalke-Bannan, MSW, LCSW
Executive Director,
National Association of Social Workers- Hawai'i Chapter



February 6, 2022

To: The Honorable Jarrett Keohokalole, Chair,
The Honorable Rosalyn H. Baker, Vice Chair, and
Members of the Senate Committee on Health

Re: **SB 2680– RELATING TO HEALTH**

Hearing: Monday, February 7, 2022, 1:00 p.m., via videoconference

Position: Strong support

Aloha Chair Keohokalole, Vice Chair Baker, and Members of the Senate Committee on Health:

The Health Committee of the Democratic Party of Hawai'i strongly supports SB 2680. The bill would amend the Our Care, Our Choice Act, now codified as HRS Chapter 327L, and corresponding provisions in Chapter 453 on medical licensing, to make medical aid in dying more accessible in an entirely responsible way. We have been informed that the current law is unduly restrictive, and there are barriers that need to be removed.

The bill would authorize advanced practice registered nurses, in addition to physicians, to practice medical aid in dying in accordance with their scope of practice and prescribing authority. The bill would also authorize psychiatric mental health nurse practitioners and clinical nurse specialists, in addition to psychiatrists, psychologists, and clinical social workers, to provide counseling to qualified patients. Additionally, the bill reduces the mandatory waiting period between oral requests for such aid from twenty days to fifteen days, and would waive the mandatory waiting period for those terminally ill individuals not expected to survive the mandatory waiting period. Thank you for the opportunity to testify.

/s/ *Melodie R. Aduja*

Melodie R. Aduja
Chair, Health Committee
Democratic Party of Hawai'i

February 4, 2022

Honorable Chair Keohokalole, Vice Chair Baker, and Esteemed Senate Committee on Health Members,

I have practiced and taught full-time palliative medicine in Hawaii for over 17 years, and I am writing, as an individual, in **strong opposition to SB-2680**.

With barely three years' experience with the Our Care, Our Choice Act (OCOCA), this bill would take Hawaii from what was touted as the safest physician-assisted suicide legislation in the nation to the one most willing to sacrifice safety in the interests of streamlining the process.

- **The bill as written is factually incorrect. Certification of a terminal prognosis is not within the scope of practice for Advanced Practice Registered Nurses (APRN's).** APRN's are an essential component of any high-quality palliative care team. Personally, I am fortunate to work on a daily basis with the most skilled palliative care APRN's in the state. However, Medicare specifically prohibits APRN's from certifying 6-month prognosis for hospice (although they may serve as attending). This certification of six-month prognosis is an essential role of the attending and consulting physicians under the OCOCA. In addition, the Our Care, Our Choice Act, like all other legally accelerated death laws in the US, defines the attending provider as having "responsibility for the care of the patient and treatment of the patient's terminal disease." APRN's do not meet this definition in that they do not have responsibility for the treatment of cancer or the neurodegenerative, pulmonary or cardiac diseases that are the most common terminal illnesses affecting people that pursue legally accelerated death. Why would Hawaii consider it scope of practice for APRNs to certify terminal prognosis when the federal government does not? On what evidence is this based as being safe or appropriate care?
- **Waiving the waiting period for those not expected to survive the waiting period is clinically illogical and an invitation to fraud and abuse.** A physician can only reliably predict that a patient will only survive days and not weeks once the patient has entered the actively dying phase. Patients at this stage nearly always lack the ability to perform the cognitive and physical functions required to self-determine their care under the OCOCA. Passing this provision would open the door to abuse by authorizing patients that are unable to self-determine and self-administer the lethal drugs or abuse by physicians succumbing to pressure to expedite the process. While legally accelerated death is nearly always about controlling life's end, the idea of waiving waiting periods to hasten dying for people who are believed at high risk of dying too soon hardly seems worth any reduction in safety that may come from expediting the process.

I have no objections to the other provisions of SB-2680: shortening the waiting period to 15 days, consistent with the practice in other states, and the inclusion of psychiatric APRN's among the behavioral health consultants to confirm capacity.

Thank you for your thoughtful consideration as you weigh this serious matter, attempting to find the best balance between minimizing suffering for the less than 0.5% of people that typically access physician-assisted suicide while promoting safe and compassionate care for the 100% of us that will face the end of life.

Respectfully,

Daniel Fischberg, MD, PhD, FAAHPM

Board-certified in Hospice & Palliative Medicine, Pain Medicine, Addiction Medicine, Internal Medicine
Kailua, HI

SB-2680

Submitted on: 2/5/2022 1:55:52 PM

Testimony for HTH on 2/7/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Allen Novak	Individual	Support	No

Comments:

I wish to support SB 2680. It will allow consumers of healthcare greater and more diverse access to care, and the helathcare providers involved will be practicing within their established scope of practice.

Chairman Jarrett Keohokalole
Vice-Chairman Rosalyn Baker
Senate Committee on Health

Kristen Ann Thompson
University of Hawai'i Manoa Graduate Student in the Thompson School of Social Work and
Public Health
Palliative Care Social Services Coordinator

Hearing Date: Monday, 2/7/2022

Support for S.B. No. 2680, Relating to amendments to the Our Care Our Choice Act

My name is Kristen Thompson, and I am a social work graduate student with a Gerontology focus. I am currently employed as a palliative care social services coordinator with a palliative, hospice, and bereavement program located on Hawai'i Island. As a social services worker and graduate student, I strongly support the passage of S.B. No. 2680, which would make improvements in accessing the benefits provided through the Our Care Our Choice Act (OCOCA). I strongly support the recommendations made by the Hawai'i Department of Health on ways to improve this law.

As a social services coordinator in a hospice and palliative program, I have witnessed first-hand the importance of "time." Hawai'i has some of the strictest policy laws in accessing these prescriptions with long mandatory waiting periods. While many people may have that time to wait, hospice patients often do not have a month or longer. Without access to the right to end their suffering on their own timeline, there is a danger that they will die before the mandatory waiting times have concluded, resulting in unnecessary pain and suffering. The amendments to SB 2680 would allow participating medical professionals to waive the current mandatory waiting times if a patient's prognosis is short or if a patient may lose their ability to self-administer medication, such as the case with Parkinson's Disease or Multiple Sclerosis. Updating this provision is a humane and respectful way to support this vulnerable population.

We know that there is a disparity in accessing OCOCA participating providers on Hawai'i Island and the neighboring islands. Advanced Practice Nurses are vital in bringing medical care to our island residents. APRNs in Hawai'i have the right to prescribe all medications, including opioids and other controlled substances. To ensure our residents have equal access to the rights provided under this law, we must update the law to allow our APRNs to prescribe the medications used in Death with Dignity programs. SB 2680 supports APRNs being considered appropriate entities to prescribe these medications.

I believe an adult of sound mind with a terminal diagnosis should have the right to choose how they wish to die and how much suffering they should have to endure. The Our Care Our Choice Act affords our community members that right, and the proposed changes in SB 2680 continue that support and respect. The Code of Ethics for the National Association of Social Workers supports the principle values of social justice and upholding the dignity and worth of our community members.

Thank you for this opportunity to testify my support for S.B. No. 2680.

SB-2680

Submitted on: 2/5/2022 6:39:33 PM

Testimony for HTH on 2/7/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dara Carlin, M.A.	Individual	Oppose	No

Comments:

From Holy Love Ministry - June 28, 2021:

Once again, I (Maureen) see a Great Flame that I have come to know as the Heart of God the Father. He says:

"The Fifth Commandment is **'Thou shalt not kill'**. These days, this Commandment is flagrantly violated. Any taking of life is profaning the Fifth Commandment. A whole industry - abortion - has been built around violation of this Commandment. This also includes the harvesting and use of stem cells. Beyond that, there is the acceptance of euthanasia and suicide. I am the Lord and Giver of Life. Only I must be the One Who calls life unto Myself."

"Disregard for this Commandment has drawn morals to a new low. Degeneration of morals threatens the general well-being of every nation. This is why there are unprecedented atmospheric events. The basic right to life is non-debatable. Human life must be respected from conception to natural death. Violation of this Commandment is man's useless attempt to control his own destiny. Basic acceptance of My Will precludes such an attitude. My Will is the basis and foundation of all the Commandments."

SB-2680

Submitted on: 2/5/2022 8:12:24 PM

Testimony for HTH on 2/7/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Yvonne Geesey	Individual	Support	No

Comments:

Right thing to do. Mahalo~

SB-2680

Submitted on: 2/6/2022 7:03:15 AM

Testimony for HTH on 2/7/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Bob Grossmann	Individual	Support	No

Comments:

All the proposed amendments will strengthen the measure.

SB-2680

Submitted on: 2/6/2022 10:08:59 AM

Testimony for HTH on 2/7/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
stephanie marshall	Individual	Support	No

Comments:

Chair Keohokalole,

As an oncology nurse for over 40 years and tenured faculty from UH school of nursing , I strongly support the amendments to the Our Care , our choice law. APRNS are fully capable of being attending or consulting providers for the patients who wish to access this option. It is not acceptable that patients have to wait 21 days to fulfill their wish to die peacefully. Hawaii needs to support those residents in their quest for a peaceful death. Thirty percent of these patients suffer needlessly while waiting for that final deadline to get their medication. Please support this bill and end that suffering.

Thank you for your consideration in this matter,

Stephanie Marshall, RN, FAAN

SB-2680

Submitted on: 2/6/2022 11:19:08 AM

Testimony for HTH on 2/7/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Mary Steiner	Individual	Support	No

Comments:

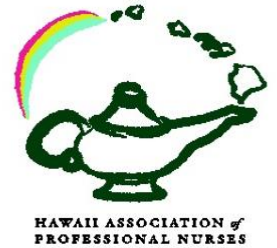
I write in strong support of SB 2680 and thank you for conducting this hearing. SB 2680 provides important amendments to the Our Care Our Choice Act (passed in 2018). These amendments will improve access for all residents of our state and improve the quality of life for many terminally ill patients who choose to access medical aid in dying.

SB 2680 improves the existing legislation by:

- Expanding access to the Our Care Our Choice Act by allowing Advanced Practice Registered Nurses to write prescriptions for medical aid in dying. This will help terminally ill individuals, particularly those who reside on neighbor islands and in rural areas, with access to the law.
- Allowing consultations with psychiatric nurse practitioners which is consistent with their scope of practice.
- Waiving the mandatory waiting period if a patient is unlikely to survive the current wait called for in the statute. Statistics show that too many people die while counting the days to obtain their prescriptions.
- Reducing the barrier for individuals seeking medical aid **in** dying. Shortening the 20-day waiting period to 15 days between oral requests will alleviate a terminally ill persons' stress. Our current law is the longest waiting period of the ten authorized jurisdictions in the US.

I sincerely hope this committee will recommend passage of SB 2680 which will result in helping more people by providing peace of mind by making the Our Care Our Choice law more accessible to more residents.

Hawai'i Association of Professional Nurses (HAPN)



To: The Honorable Senator Jarrett Keohokalole, Chair of the Senate Committee on Health

From: Hawaii Association of Professional Nurses (HAPN)
Subject: SB2680 – Relating to Health

Hearing: February 7, 2022, 1p.m.

LATE

Aloha Senator Keohokalole, Chair; Senator Baker, Vice Chair, and Committee Members,

Thank you for the opportunity to submit testimony regarding SB2680. HAPN is in **strong Support** of placing choice in the hands of patients with whom we work every day, which includes patient choice in who their provider is when making a decision of this magnitude. We have reviewed the recommendations made by the Department of Health to include Advanced Practice Registered Nurses (APRN) to practice medical aid in dying in accordance with their scope of practice. We also support reducing the mandatory waiting period to 15 days and allowing the provider to waive this waiting period as they deem appropriate after evaluation and discussion with the patient about their options.

HAPN's mission, to be the voice of APRNs in Hawaii, has been the guiding force that propelled us to spearhead the advancement of patients' access to healthcare as well as supporting the recognition of the scope of practice for APRNs in Hawaii which led us to full practice authority. We have worked to improve the physical and mental health of our communities. As our ability to provide close care with our patients progressed, we also opened up our own clinics to provide the care our patients deserve. As a result, the current law requires that a patient remove themselves from the excellent care their APRN has provided them over the years to discuss this end-of-life option with physicians who may not have the same patient-provider relationship.

APRNs have played an important role in the healthcare of our communities and we will continue to be by our patients' side as they make many different healthcare decisions throughout their lives. There have been clear indications that patients on our rural islands have been having difficulty finding healthcare professionals to support them in their legal right: <https://www.hawaiitribune-herald.com/2020/11/15/opinion/aid-in-dying-shouldnt-be-this-difficult-in-east-hawaii/>. We support the recommendations from our partners at the Department of Health in their assessment and evaluation of this issue.

Thank you for the opportunity to share the perspective of HAPN with your committee. Thank you for your enduring support of the nursing profession in the Aloha State.

Respectfully,
Dr. Jeremy Creekmore, APRN
HAPN President

Dr. Bradley Kuo, APRN
HAPN Legislative Committee, Chair
HAPN Past President



Submitted Online: February 7, 2022

HEARING: Monday, February 7, 2022

TO: Senate Committee on Health
Sen Jarrett Keohokalole, Chair
Sen. Rosalyn Baker, Vice-Chair

FROM: Eva Andrade, President

RE: Opposition to SB 2680 Relating to Health

LATE

Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii. We oppose this bill that chips away at the safeguards that were put in place when the “Our Care, Our Choice” law went into effect.

If this bill is passed, it will (1) allow advanced practice registered nurses to practice medical aid in dying instead of limiting this to physicians who are the only healthcare professionals who are best able to determine a patient's prognoses, (2) allow psychiatric mental health nurse practitioners and clinical nurse specialists to provide counseling to a qualified patient, (3) reduce the mandatory waiting period between oral requests made by a terminally ill individuals and (4) allow the attending provider to waive the waiting period for terminally ill individuals not expected to survive the mandatory waiting period.

We expressed our strong opposition when the Our Care Our Choice Act was passed in 2018 because we were (and still are) very concerned about abuse of the law, primarily against frail elders and other vulnerable patients. At that time, to alleviate our concerns, the introduction to the bill stated that the “rigorous safeguards will be the strongest of any state in the nation and will protect patients and their loved ones from any potential abuseⁱ.” Therefore, we are disheartened to see that these safeguards are already being removed or modified.

Although there are those in the community that are receptive to the general concept of assisted suicide, we believe that when the public learns about the dangers of assisted suicide, especially for those who are poor, elderly, disabled, or without access to good medical care, their views shift against the practice. Rather than expand the law, we should continue to provide education on available access to palliative care and hospice services.

Please do not sacrifice patient safety during a time of high suicide rates and economic uncertainty. Mahalo for the opportunity to submit testimony.

ⁱ https://www.capitol.hawaii.gov/session2018/bills/HB2739_HD1_.HTM

THE KŪPUNA CAUCUS



February 6th 2022

LATE

To: Senate Committee on Health
Chair Jarret Keohokalole,
Vice Chair Rosalyn H. Baker

RE: Our Care, Our Choice Act; Advanced Practice Registered Nurses; Mandatory
Waiting Period

Position: Full Support

ALOHA Chair Keohokalole, Vice-Chair Rosalyn H. Baker, and Members of the Committee,

I'm writing today to urge you to vote yes on the Kupuna Caucus priority bill, SB2680 which makes necessary improvements to the Our Care, Our Choice Act (OCOCA). Last legislative session this bill (SB 839) passed the Senate with overwhelming support.

This is a top priority bill for the Kupuna Caucus for the second year in a row, and it is endorsed by over 200 voters, the Hawai'i Department of Health, the Hawai'i Society of Clinical Oncology, National Association of Social Workers - Hawai'i, the Hawai'i Psychological Association, the Hawai'i Democratic Party and the Hawai'i Center for Nursing. It is also a priority for the Health Committee of the DPH of which I am a member.

The Our Care, Our Choice Act has been in effect for over 3 years now. Yet many eligible terminally ill patients are having trouble accessing the law, causing needless suffering. That is why the Department of Health continues to advise amending the law and supports this bill.

If even one qualified patient is forced to spend their final weeks in fear and pain, hoping desperately to use the law only to be turned away or die during the waiting period, then that is one patient too many. Please vote yes on these necessary improvements to the Our Care, Our Choice Act and provide needed relief to terminally ill Hawai'i residents.

Thank you for ensuring everyone in the Aloha State is empowered to choose end-of-life care that reflects their values, priorities, and beliefs. We are grateful for your leadership.

Sincerely
Martha E Randolph
DPH Kupuna Caucus Treasurer,
President of Democratic Precinct 4 District 25

SB-2680

Submitted on: 2/6/2022 1:53:40 PM

Testimony for HTH on 2/7/2022 1:00:00 PM



Submitted By	Organization	Testifier Position	Remote Testimony Requested
Caryn Ireland	Individual	Support	No

Comments:

I strongly support all the proposed changes to this important bill. Our State's physician shortage emphasizes the need to add APRN's to this important Law. In addition, shortening the waiting period for those patients who will not make it through the waiting period is the very humane thing for us to do to improve the Our Care, Our Choice Act.

SB-2680

Submitted on: 2/6/2022 2:37:22 PM

Testimony for HTH on 2/7/2022 1:00:00 PM



Submitted By	Organization	Testifier Position	Remote Testimony Requested
Katherine Finn Davis	Individual	Support	No

Comments:

I support this bill.

SB-2680

Submitted on: 2/6/2022 4:36:01 PM

Testimony for HTH on 2/7/2022 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Matt Bishop	Individual	Support	No

Comments:

I support this measure as written. Hawaii will do well to have all Advanced Practice Registered Nurses functioning to the fullest extent of their license and training. This will give Hawaii's residents the best healthcare options available.

SB-2680

Submitted on: 2/6/2022 4:50:45 PM

Testimony for HTH on 2/7/2022 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gerard Silva	Individual	Oppose	No

Comments:

They are not Doctors. They should not be allowed!!

SB-2680

Submitted on: 2/7/2022 9:26:14 AM

Testimony for HTH on 2/7/2022 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Julia Lindbergh	Individual	Support	No

Comments:

As a registered nurse with almost 50 years of experience mostly in the care of TERMINALLY Ill patients, I am HIGHLY IN FAVOR of this change from a 21 day waiting period to 15. Patient's conditions change VERY rapidly and making this change would be EXTREMELY helpful for not only the patient but for the family members and loved ones caring for them. Please make this happen. Sincerely,

Julia Lindbergh, RN

SB-2680

Submitted on: 2/7/2022 10:36:38 AM

Testimony for HTH on 2/7/2022 1:00:00 PM



Submitted By	Organization	Testifier Position	Remote Testimony Requested
Carm Akim	Individual	Oppose	No

Comments:

No concrete data from the APRNs in Hawaii that they are willing to accept or shoulder the responsibility of providing lethal medications or "care" to assist a patient committing suicide.