

JAN 24 2007

A BILL FOR AN ACT

RELATING TO DEATH WITH DIGNITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 **"CHAPTER**

5 **DEATH WITH DIGNITY**

6 **PART I. GENERAL PROVISIONS**

7 § -1 **Definitions.** As used in this chapter, unless the
8 context clearly requires otherwise:

9 "Adult" means an individual who is eighteen years of age or
10 older.

11 "Alternate physician" means a physician who takes over the
12 responsibilities relinquished by an attending physician who
13 either declines or is unable to fulfill the responsibilities of
14 an attending physician as required under section -31(a).

15 "Attending physician" means the physician who has primary
16 responsibility for the care of the patient and treatment of the
17 patient's terminal disease.



1 "Capable" means that, in the opinion of a court or in the
2 opinion of the patient's attending physician or consulting
3 physician, psychiatrist, or psychologist, a patient has the
4 ability to make and communicate health care decisions to health
5 care providers, including communication through persons familiar
6 with the patient's manner of communicating if those persons are
7 available.

8 "Consulting physician" means a physician who is qualified
9 by specialty or experience to make a professional diagnosis and
10 prognosis regarding the patient's disease.

11 "Counseling" means one or more consultations as necessary
12 between a state licensed psychiatrist or psychologist and a
13 patient for the purpose of determining that the patient is
14 capable and not suffering from a psychiatric or psychological
15 disorder or depression causing impaired judgment.

16 "Department" means the department of health.

17 "Health care facility" means:

- 18 (1) A hospital with an organized medical staff, with
19 permanent facilities that include inpatient beds, and
20 with medical services, including physician services
21 and continuous nursing services under the supervision
22 of registered nurses, to provide diagnosis and medical



1 or surgical treatment primarily for acutely ill
2 patients and accident victims, or to provide treatment
3 for the mentally ill or to provide treatment in
4 special inpatient care facilities. For purposes of
5 this definition, a "special inpatient care facility"
6 is a facility with permanent inpatient beds and other
7 facilities designed and used for special health care
8 purposes, including: rehabilitation centers, college
9 infirmaries, chiropractic facilities, facilities for
10 the treatment of alcoholism or drug abuse, or
11 inpatient care facilities, and any other establishment
12 falling within a classification established by the
13 department, after determination of the need for that
14 classification and the level and kind of health care
15 appropriate for that classification; or
16 (2) A long-term care facility with permanent facilities
17 that include inpatient beds, providing medical
18 services, including nursing services but excluding
19 surgical procedures except as may be permitted by the
20 rules of the department, to provide treatment for two
21 or more unrelated patients. The term "Long-term care
22 facility" includes:



1 (A) A skilled nursing facility, whether an
2 institution or a distinct part of an institution,
3 that is primarily engaged in providing to
4 inpatients skilled nursing care and related
5 services for patients who require medical or
6 nursing care, or rehabilitation services for the
7 rehabilitation of injured, disabled, or sick
8 persons; and

9 (B) An intermediate care facility that provides, on a
10 regular basis, health-related care and services
11 to individuals who do not require the degree of
12 care and treatment that a hospital or skilled
13 nursing facility is designed to provide, but who,
14 because of their mental or physical condition,
15 require care and services above the level of room
16 and board that can be made available to them only
17 through institutional facilities.

18 The term shall not be construed to include home health
19 agencies, residential facilities, hospice programs, and homes.

20 "Health care provider" means a person licensed, certified,
21 or otherwise authorized or permitted by the law of this State to
22 administer health care or dispense medication in the ordinary



1 course of business or practice of a profession and includes a
2 health care facility.

3 "Informed decision" means a decision that is made by a
4 qualified patient to request and obtain a prescription to end
5 the patient's life in a humane and dignified manner and that is
6 based upon an appreciation of the relevant facts and after being
7 fully informed by the attending physician of:

- 8 (1) The qualified patient's medical diagnosis;
- 9 (2) The qualified patient's prognosis;
- 10 (3) The potential risks associated with taking the
11 medication to be prescribed;
- 12 (4) The probable result of taking the medication to be
13 prescribed; and
- 14 (5) The feasible alternatives, including comfort care,
15 hospice care, and pain control.

16 "Medically confirmed" means the medical opinion of the
17 attending physician has been confirmed by a consulting physician
18 who has examined the patient and the patient's relevant medical
19 records.

20 "Patient" means a person who is under the care of a
21 physician.



1 "Physician" means a doctor of medicine or osteopathy
2 licensed to practice medicine by the board of medical examiners
3 pursuant to chapter 453 or 460.

4 "Qualified patient" means a capable adult who is a resident
5 of Hawaii and has satisfied the requirements of this chapter in
6 order to obtain a prescription for medication to end the
7 patient's life in a humane and dignified manner.

8 "Terminal disease" means an incurable and irreversible
9 disease that has been medically confirmed and will, within
10 reasonable medical judgment, produce death within six months.

11 § -2 **Severability.** Any section of this chapter that is
12 held invalid as to any person or circumstance shall not affect
13 the application of any other section of this chapter which can
14 be given full effect without the invalid section or application.

15 **PART II. WRITTEN REQUEST FOR MEDICATION**

16 § -21 **Who may initiate a written request for medication.**

17 (a) An adult who is capable, is a resident of Hawaii, and has
18 been determined by the attending physician or alternate
19 physician and consulting physician to be suffering from a
20 terminal disease, and who has voluntarily expressed that
21 person's wish to die, may make a written request for medication



1 for the purpose of ending that person's life in a humane and
2 dignified manner in accordance with this chapter.

3 (b) No person shall qualify under this chapter solely
4 because of age or disability.

5 § -22 Form of the written request. (a) A valid request
6 for medication under this chapter shall be in substantially the
7 form described in section -61, signed and dated by the
8 patient and witnessed by at least two individuals who, in the
9 presence of the qualified patient, attest that to the best of
10 their knowledge and belief the qualified patient is capable,
11 acting voluntarily, and is not being coerced to sign the
12 request.

13 (b) One of the witnesses shall be a person who is not any
14 of the following:

- 15 (1) A relative of the qualified patient by blood,
16 marriage, or adoption;
- 17 (2) A person who, at the time the request is signed, would
18 be entitled to any portion of the estate of the
19 qualified patient upon death under any will or by
20 operation of law; or



1 (3) An owner, operator, or employee of a health care
 2 facility where the qualified patient is receiving
 3 medical treatment or is a resident.

4 (c) The patient's attending physician or alternate
 5 physician at the time the request is signed shall not be a
 6 witness.

7 (d) If the qualified patient is in a long-term care
 8 facility at the time the written request is made, a third
 9 witness shall be required in addition to the two witnesses
 10 described in subsection (a). The third witness shall be an
 11 individual designated by the facility and shall have the
 12 qualifications specified by the department by rule.

PART III. SAFEGUARDS

14 § -31 **Attending physician responsibilities; alternate**
 15 **physician.** (a) The attending physician shall:

16 (1) Make the initial determination of whether a patient
 17 has a terminal disease, is capable, and has made the
 18 request voluntarily;

19 (2) Request that the patient demonstrate Hawaii residency
 20 pursuant to section -40;

21 (3) To ensure that the patient is making an informed
 22 decision, inform the patient of:



- 1 (A) The patient's medical diagnosis;
- 2 (B) The patient's prognosis;
- 3 (C) The potential risks associated with taking the
- 4 medication to be prescribed;
- 5 (D) The probable result of taking the medication to
- 6 be prescribed; and
- 7 (E) The feasible alternatives, including comfort
- 8 care, hospice care, and pain control;
- 9 (4) Refer the patient to a consulting physician for
- 10 medical confirmation of the diagnosis and
- 11 determination that the patient is capable and acting
- 12 voluntarily;
- 13 (5) Refer the patient for counseling if appropriate
- 14 pursuant to section -33;
- 15 (6) Recommend that the patient notify next of kin;
- 16 (7) Counsel the patient about the importance of having
- 17 another person present when the patient takes the
- 18 medication prescribed pursuant to this chapter and of
- 19 not taking the medication in a public place;
- 20 (8) Inform the patient that the patient has an opportunity
- 21 to rescind the request at any time and in any manner,
- 22 and offer the patient an opportunity, pursuant to



- 1 section -36, to rescind at the end of the
2 fifteen-day waiting period;
- 3 (9) Verify, immediately prior to writing the prescription
4 for medication under this chapter, that the patient is
5 making an informed decision;
- 6 (10) Fulfill the medical record documentation requirements
7 of section -39;
- 8 (11) Ensure that all appropriate steps are carried out in
9 accordance with this chapter prior to writing a
10 prescription for medication to enable a qualified
11 patient to end the patient's life in a humane and
12 dignified manner; and
- 13 (12) (A) Dispense medications directly, including
14 ancillary medications intended to facilitate the
15 desired effect, to minimize the patient's
16 discomfort; provided the attending physician is
17 registered as a dispensing physician with the
18 board of medical examiners, has a current Drug
19 Enforcement Administration certificate, and
20 complies with any applicable administrative rule;
21 or
- 22 (B) With the patient's written consent:



1 (i) Contact a pharmacist and inform the
2 pharmacist of the prescription; and
3 (ii) Deliver the written prescription personally
4 or by mail to the pharmacist, who shall
5 dispense the medications either to the
6 patient, the attending physician, or an
7 expressly identified agent of the patient.

8 (b) Notwithstanding any other provision of law, the
9 attending physician may sign the patient's death certificate.

10 (c) If at any time an attending physician declines or is
11 unable to fulfill any of the responsibilities detailed in
12 subsection (a), particularly paragraph (12) regarding dispensing
13 medication to a patient, the attending physician shall
14 relinquish the responsibilities to an alternate physician who is
15 willing and able to fulfill the responsibilities detailed in
16 subsection (a). The alternate physician shall confirm with the
17 attending physician or the consulting physician that the
18 diagnosis has not changed and that the patient is capable, is
19 acting voluntarily, has made an informed decision, and remains a
20 qualified patient under this chapter. The alternate physician
21 may not dispense medication to the patient under subsection



1 (a)(12) until at least fifteen days after the alternate
2 physician's initial consultation with the patient.

3 § -32 **Consulting physician confirmation.** Before a
4 patient is deemed qualified under this chapter, the consulting
5 physician shall examine the patient and the patient's relevant
6 medical records and confirm in writing the attending physician's
7 diagnosis that the patient is suffering from a terminal disease
8 and shall verify that the patient is capable, is acting
9 voluntarily, and has made an informed decision. If necessary,
10 the consulting physician shall also confirm with the alternate
11 physician, pursuant to section -31(c), that the diagnosis has
12 not changed and that the patient is capable, is acting
13 voluntarily, has made an informed decision, and remains a
14 qualified patient under this chapter.

15 § -33 **Counseling referral.** If, in the opinion of the
16 attending physician, the alternate physician, or the consulting
17 physician, a patient may be suffering from a psychiatric or
18 psychological disorder or depression causing impaired judgment,
19 any one of the physicians shall refer the patient for
20 counseling. No medication to end a patient's life in a humane
21 and dignified manner shall be prescribed until the person
22 performing the counseling determines that the patient is not



1 suffering from a psychiatric or psychological disorder or
2 depression causing impaired judgment.

3 § -34 **Informed decision.** No person shall receive a
4 prescription for medication to end the patient's life in a
5 humane and dignified manner unless the patient has made an
6 informed decision. Immediately prior to writing a prescription
7 for medication under this chapter, the attending or alternate
8 physician shall verify that the qualified patient is making an
9 informed decision.

10 § -35 **Family notification.** The attending or alternate
11 physician shall recommend that the qualified patient notify the
12 next of kin of the qualified patient's request for medication
13 pursuant to this chapter. A qualified patient who declines or
14 is unable to notify next of kin shall not have the qualified
15 patient's request denied for that reason.

16 § -36 **Written and oral requests.** In order to receive a
17 prescription for medication to end a qualified patient's life in
18 a humane and dignified manner, a qualified patient shall have
19 made an oral request and a written request and shall reiterate
20 the oral request to the qualified patient's attending or
21 alternate physician no less than fifteen days after making the
22 initial oral request. At the time the qualified patient makes a



1 second oral request, the attending or alternate physician shall
2 offer the qualified patient an opportunity to rescind the
3 request.

4 § -37 **Right to rescind request.** A qualified patient may
5 rescind a request at any time and in any manner without regard
6 to the qualified patient's mental state. No prescription for
7 medication under this chapter may be written without the
8 attending or alternate physician offering the qualified patient
9 an opportunity to rescind the request.

10 § -38 **Waiting periods.** No less than fifteen days shall
11 elapse between the qualified patient's initial oral request and
12 the writing of a prescription under this chapter. No less than
13 forty-eight hours shall elapse between the patient's written
14 request and the writing of a prescription under this chapter.

15 § -39 **Medical record documentation requirements.** The
16 following shall be documented or filed in the qualified
17 patient's medical record:

- 18 (1) All oral requests by a qualified patient for
19 medication to end the qualified patient's life in a
20 humane and dignified manner;



- 1 (2) All written requests by a qualified patient for
2 medication to end the qualified patient's life in a
3 humane and dignified manner;
- 4 (3) The attending physician's diagnosis, prognosis, and
5 determination that the patient is capable, acting
6 voluntarily, and has made an informed decision and, if
7 necessary, the alternate physician's confirmation that
8 the diagnosis has not changed and that the patient is
9 capable, is acting voluntarily, has made an informed
10 decision, and remains a qualified patient under this
11 chapter;
- 12 (4) The consulting physician's diagnosis, prognosis, and
13 verification that the patient is capable, acting
14 voluntarily, and has made an informed decision;
- 15 (5) A report of the outcome and determinations made during
16 counseling, if performed;
- 17 (6) The attending or alternate physician's offer to the
18 qualified patient to rescind the qualified patient's
19 request at the time of the qualified patient's second
20 oral request pursuant to section -36;
- 21 (7) A note by the attending or alternate physician
22 indicating that all requirements under this chapter



1 have been met and indicating the steps taken to carry
2 out the request, including a notation of the
3 medication prescribed; and

4 (8) A completed form reporting the event to be completed
5 by a monitor who is required to be present at the
6 event pursuant to section -41.

7 § -40 **Residency requirement.** Only requests made by
8 Hawaii residents who have been domiciled or physically present
9 in the State for a continuous period of at least six months
10 prior to the time the initial oral request for medication to end
11 the patient's life is made under this chapter shall be granted.
12 Factors demonstrating Hawaii residency include:

- 13 (1) Possession of a Hawaii driver's license;
- 14 (2) Registration to vote in Hawaii;
- 15 (3) Evidence that the person owns or leases property in
16 Hawaii;
- 17 (4) Filing of a Hawaii tax return for the most recent tax
18 year; or
- 19 (5) Any other documentation that establishes legal
20 residency in the State.

21 § -41 **Monitor required; form.** (a) A qualified patient
22 shall designate a competent adult to act as a monitor and who



1 shall be present at the time of actual administration of the
2 medication to the qualified patient and be a witness to the
3 event. The monitor shall have the power to act on behalf of the
4 qualified patient to:

- 5 (1) Stop the administration of the medication if it has
6 not yet been carried out; or
- 7 (2) Enlist medical assistance to attempt to reverse the
8 effect of the medication if the medication has already
9 been delivered,

10 if the monitor has reason to believe that the qualified patient
11 has had a change of mind and is not able to effectively express
12 or communicate the wish not to proceed taking the medication.

13 (b) The department of health shall develop a form for a
14 monitor to complete upon witnessing and participating in the
15 event described under this section.

16 § -42 Department requirements. (a) The department
17 shall annually review a sample of records maintained pursuant to
18 this chapter and shall require any health care provider upon
19 dispensing medication pursuant to this chapter to file a copy of
20 the dispensing record with the department.

21 (b) The department shall adopt rules pursuant to chapter
22 91 to facilitate the collection of information regarding



1 compliance with this chapter. Except as otherwise required by
2 law, the information collected shall not be a government record
3 under chapter 92F and may not be made available for inspection
4 by the public.

5 (c) The department shall generate and make available to
6 the public an annual statistical report of information collected
7 under subsection (b).

8 (d) Upon issuance of a death certificate under section
9 338-9 of any qualified patient under this chapter, the
10 department shall designate the cause of death as the underlying
11 terminal disease or diseases as diagnosed under section
12 -31(a)(1).

13 **§ -43 Effect on construction of wills, contracts, and**
14 **other agreements.** (a) No provision in a contract, will, or
15 other agreement, whether written or oral, to the extent the
16 provision would affect whether a person may make or rescind a
17 request for medication to end the person's life in a humane and
18 dignified manner, shall be valid.

19 (b) No obligation owing under any currently existing
20 contract shall be conditioned or affected by the making or
21 rescinding of a request, by a person who is a qualified patient,



1 for medication to end the person's life in a humane and
2 dignified manner.

3 § -44 **Insurance or annuity policies.** The sale,
4 procurement, or issuance of any life, health, or accident
5 insurance or annuity policy or the rate charged for any policy
6 in this State shall not be conditioned upon or affected by the
7 making or rescinding of a request, by a person who is a
8 qualified patient, for medication to end the person's life in a
9 humane and dignified manner, nor shall a qualified patient's act
10 of ingesting medication to end the patient's life in a humane
11 and dignified manner have an effect upon any life, health, or
12 accident insurance or annuity policy issued in this State, be
13 construed as a suicide for purposes of any life, health, or
14 accident insurance or annuity policy issued in this State for
15 purposes of section 431:10D-108(b)(5).

16 § -45 **Construction of chapter.** Nothing in this chapter
17 shall be construed to authorize a physician or any other person
18 to end a patient's life by lethal injection, mercy killing, or
19 active euthanasia. Actions taken in accordance with this
20 chapter shall not, for any purpose, constitute suicide, assisted
21 suicide, mercy killing, or homicide under the law.

22 **PART IV. IMMUNITIES AND LIABILITIES**



1 § -51 Immunities; basis for prohibiting health care
2 provider or monitor from participation; notification;
3 permissible sanctions. (a) Except as provided in section

4 -52:

5 (1) No person shall be subject to civil or criminal
6 liability or professional disciplinary action for
7 participating in good faith compliance with this
8 chapter. This includes being present when a qualified
9 patient takes the prescribed medication to end the
10 qualified patient's life in a humane and dignified
11 manner;

12 (2) No professional organization or association, or health
13 care provider, may subject a person to censure,
14 discipline, suspension, loss of license, loss of
15 privileges, loss of membership, or other penalty for
16 participating or refusing to participate in good faith
17 compliance with this chapter;

18 (3) No request by a qualified patient for or provision by
19 an attending or alternate physician of medication in
20 good faith compliance with this chapter shall
21 constitute neglect for any purpose of law or provide



1 the sole basis for the appointment of a guardian or
2 conservator; and

3 (4) No health care provider shall be under any duty,
4 whether by contract, statute, or any other legal
5 requirement, to participate in the provision to a
6 qualified patient of medication to end the qualified
7 patient's life in a humane and dignified manner. If a
8 health care provider is unable or unwilling to carry
9 out a qualified patient's request under this chapter,
10 and the qualified patient transfers the qualified
11 patient's care to a new health care provider, the
12 prior health care provider shall transfer, upon
13 request, a copy of the qualified patient's relevant
14 medical records to the new health care provider.

15 (b) Except as provided in section -52:

16 (1) Notwithstanding any other provision of law, a health
17 care provider may prohibit another health care
18 provider from participating in this chapter on the
19 premises of the prohibiting provider if the
20 prohibiting provider has notified the health care
21 provider of the prohibiting provider's policy
22 regarding participating in this chapter. Nothing in



1 this paragraph shall prevent a health care provider
2 from providing health care services to a qualified
3 patient that does not constitute participation in this
4 chapter;

5 (2) Notwithstanding subsection (a), a health care provider
6 may subject another health care provider to the
7 sanctions stated in this paragraph if the sanctioning
8 health care provider has notified the sanctioned
9 provider prior to participation in this chapter that
10 it prohibits participation in this chapter:

11 (A) Loss of privileges, loss of membership, or other
12 sanction provided pursuant to the medical staff
13 bylaws, policies, and procedures of the
14 sanctioning health care provider if the
15 sanctioned provider is a member of the
16 sanctioning provider's medical staff and
17 participates in this chapter while on the health
18 care facility premises of the sanctioning health
19 care provider, but not including the private
20 medical office of a physician or other provider;

21 (B) Termination of lease or other property contract
22 or other nonmonetary remedies provided by lease



1 contract, not including loss or restriction of
2 medical staff privileges or exclusion from a
3 provider panel, if the sanctioned provider
4 participates in this chapter while on the
5 premises of the sanctioning health care provider
6 or on property that is owned by or under the
7 direct control of the sanctioning health care
8 provider; or

9 (C) Termination of contract or other nonmonetary
10 remedies provided by contract if the sanctioned
11 provider participates in this chapter while
12 acting in the course and scope of the sanctioned
13 provider's capacity as an employee or independent
14 contractor of the sanctioning health care
15 provider. Nothing in this subparagraph shall be
16 construed to prevent:

17 (i) A health care provider from participating in
18 this chapter while acting outside the course
19 and scope of the provider's capacity as an
20 employee or independent contractor; or

21 (ii) A qualified patient from contracting with
22 the qualified patient's attending or



1 alternate physician and consulting physician
 2 to act outside the course and scope of the
 3 provider's capacity as an employee or
 4 independent contractor of the sanctioning
 5 health care provider; and

6 (3) A health care provider that imposes sanctions pursuant
 7 to paragraph (2) shall follow all due process and
 8 other procedures the sanctioning health care provider
 9 may have, including, at a minimum, reasonable notice
 10 and an opportunity for a hearing, that are related to
 11 the imposition of sanctions on another health care
 12 provider.

13 For the purposes of this subsection:

14 "Notify" means to make a separate statement in writing to
 15 the health care provider specifically informing the health care
 16 provider prior to the provider's participation in this chapter
 17 of the sanctioning health care provider's policy about
 18 participation in activities covered by this chapter.

19 "Participate in this chapter":

20 (1) Means to perform the duties of an attending or
 21 alternate physician pursuant to section -31, the
 22 consulting physician function pursuant to section



1 -32, the counseling function pursuant to section
2 -33, or the monitoring function pursuant to section
3 -41;

4 (2) Does not include:

5 (A) Making an initial determination that a patient
6 has a terminal disease and informing the patient
7 of the medical prognosis;

8 (B) Providing information about this chapter to a
9 patient upon the request of the patient;

10 (C) Providing a patient, upon the request of the
11 patient, with a referral to another physician; or

12 (D) A qualified patient contracting with the
13 patient's attending or alternate physician and
14 consulting physician to act outside of the course
15 and scope of the provider's capacity as an
16 employee or independent contractor of the
17 sanctioning health care provider.

18 (c) Suspension or termination of staff membership or
19 privileges under subsection (b) is not reportable under section
20 453-7.5, 453-8, 460-12, or 460-19. Action taken pursuant to
21 sections -31, -32, or -33 shall not be the sole basis



1 for a report or complaint of unprofessional or dishonorable
2 conduct under section 453-7.5, 453-8, 460-12, or 460-19.

3 (d) No provision of this chapter shall be construed to
4 allow a lower standard of care for patients in the community
5 where the patient is treated or a similar community.

6 (e) Actions taken pursuant to this chapter shall not be
7 grounds for revocation, limitation, suspension, or denial of
8 licenses under section 453-8 or 460-12, so long as the health
9 care provider has complied fully with this chapter.

10 § -52 **Liabilities.** (a) A person who, without
11 authorization of the qualified patient, wilfully alters or
12 forges a request for medication, or conceals or destroys a
13 rescission of that request, with the intent or effect of causing
14 the patient's death shall be guilty of a class A felony.

15 (b) Any person who coerces or exerts undue influence on a
16 patient to request medication for the purpose of ending the
17 patient's life, or to destroy a rescission of such a request,
18 shall be guilty of a class A felony.

19 (c) Nothing in this chapter limits further liability for
20 civil damages resulting from other negligent conduct or
21 intentional misconduct by any person.



1 (d) The penalties in this chapter do not preclude criminal
2 penalties applicable under any other law for conduct that is
3 inconsistent with this chapter.

4 § -53 Claims by governmental entity for costs incurred.

5 Any governmental entity that incurs costs resulting from a
6 person terminating the person's life pursuant to this chapter in
7 a public place shall have a claim against the estate of the
8 person to recover costs and reasonable attorney fees related to
9 enforcing the claim.

10 PART V. FORM OF THE REQUEST

11 § -61 Form of the request. A request for medication as
12 authorized by this chapter shall be in substantially the
13 following form:

14 REQUEST FOR MEDICATION

15 TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

16 I, _____, am an adult of sound mind. I am suffering
17 from _____, which my attending or alternate physician
18 has determined is a terminal disease and which has been
19 medically confirmed by a consulting physician. I have been
20 fully informed of my diagnosis, prognosis, the nature of
21 medication to be prescribed and potential associated risks, the



1 expected result, and the feasible alternatives, including
2 comfort care, hospice care, and pain control.

3 I request that my attending or alternate physician prescribe
4 medication that will end my life in a humane and dignified
5 manner.

6 INITIAL ONE:

7 _____ I have informed my family of my decision and taken their
8 opinions into consideration.

9 _____ I have decided not to inform my family of my decision.

10 _____ I have no family to inform of my decision.

11 I understand that I have the right to rescind this request at
12 any time.

13 I understand the full import of this request and I expect to die
14 when I take the medication to be prescribed. I further
15 understand that, although most deaths occur within three hours,
16 my death may take longer and my physician has counseled me about
17 this possibility.

18 I make this request voluntarily and without reservation, and I
19 accept full moral responsibility for my actions.

20 Signed: _____

21 Dated: _____

22 **DECLARATION OF WITNESSES**



1 We declare that the person signing this request:

2 (1) Is personally known to us or has provided proof of
3 identity;

4 (2) Signed this request in our presence;

5 (3) Appears to be of sound mind and not under duress, fraud, or
6 undue influence; and

7 (4) Is not a patient for whom either of us is the attending or
8 alternate physician.

9 _____ Witness 1/Date

10 _____ Witness 2/Date

11 _____ Witness 3/Date

12 NOTE: One witness shall not be a relative (by blood, marriage,
13 or adoption) of the person signing this request, shall not be
14 entitled to any portion of the person's estate upon death, and
15 shall not own, operate, or be employed at a health care facility
16 where the person is a patient or resident. If the patient is an
17 inpatient at a health care facility, one of the witnesses shall
18 be an individual designated by the facility. The form shall
19 contain checkboxes to indicate the status of each witness with
20 respect to these qualifications."



1 SECTION 2. Chapter 461, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§461- Compliance with death with dignity law.

5 Notwithstanding any law to the contrary, nothing in this chapter
6 shall be deemed to prohibit a registered pharmacist from
7 dispensing medications to a qualified patient, the qualified
8 patient's attending or alternate physician, or an expressly
9 identified agent of the qualified patient, for the purpose of
10 ending the qualified patient's life in a humane and dignified
11 manner, as provided in section -31(a)(12)(B)(ii)."

12 SECTION 3. Section 327E-13, Hawaii Revised Statutes, is
13 amended by amending subsection (c) to read as follows:

14 "(c) This chapter shall not authorize mercy killing,
15 assisted suicide, euthanasia, or the provision, withholding, or
16 withdrawal of health care, to the extent prohibited by other
17 statutes of this State[-]; provided that death with dignity
18 under chapter shall not be affected by this section."

19 SECTION 4. Section 431:10D-108, Hawaii Revised Statutes,
20 is amended by amending subsection (b) to read as follows:

21 "(b) No policy of life insurance shall be delivered or
22 issued for delivery in this State if it contains a provision



1 ~~[which]~~ that excludes or restricts liability for death caused in
2 a certain specified manner or occurring while the insured has a
3 specified status, except that the policy may contain provisions
4 excluding or restricting coverage as specified therein in event
5 of death under any one or more of the following circumstances:

- 6 (1) Death as a result directly or indirectly of war,
7 declared or undeclared, or of any act or hazard of
8 such war;
- 9 (2) Death as a result of aviation under conditions
10 specified in the policy;
- 11 (3) Death as a result of a specified hazardous occupation
12 or occupations;
- 13 (4) Death while the insured is a resident outside of the
14 United States and Canada; or
- 15 (5) Death within two years from the date of issue of the
16 policy as a result of suicide, while sane or
17 insane[-]; provided that death with dignity under
18 chapter shall not be considered suicide for
19 purposes of this section."

20 SECTION 5. This Act does not affect rights and duties that
21 matured, penalties that were incurred, and proceedings that were
22 begun, before its effective date.

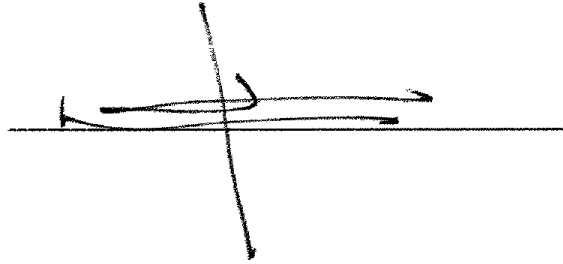


1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect upon its approval.

4

INTRODUCED BY:



Report Title:

Death With Dignity

Description:

Allows a terminally ill, competent adult to get lethal dose of medication to end life. Prohibits mercy killings, lethal injections, and active euthanasia. Requires informed consent. Allows alternate doctor to replace attending doctor if latter declines to prescribe. Requires monitor at time of taking dose.

