



# H.B. NO. 150

1 "Attending physician checklist and compliance form" means a  
2 form, as described in section -22, identifying each and every  
3 requirement that shall be fulfilled by an attending physician to  
4 be in good faith compliance with this chapter should the  
5 attending physician choose to participate.

6 "Capacity to make medical decisions" means that, in the  
7 opinion of a court or an individual's attending physician,  
8 consulting physician, psychiatrist, or psychologist, the  
9 individual has the ability to:

- 10 (1) Understand the nature, consequences, significant  
11 benefits, risks, and alternatives of a health care  
12 decision; and
- 13 (2) Make and communicate informed health care decisions to  
14 health care providers, including communication through  
15 persons familiar with the individual's manner of  
16 communicating if those persons are available.

17 "Consulting physician" means a physician who is independent  
18 from the attending physician and who is qualified by specialty  
19 or experience to make a professional diagnosis and prognosis  
20 regarding an individual's terminal disease.

21 "Department" means the department of health.



1 "Health care provider" or "provider of health care" means a  
2 person licensed, certified, or otherwise authorized or permitted  
3 by the law of this State to administer health care or dispense  
4 medication in the ordinary course of business or practice of a  
5 profession and includes a health care facility.

6 "Informed decision" means a decision by an individual with  
7 a terminal disease to request and obtain a prescription for a  
8 drug that the individual may self-administer to end the  
9 individual's life, that is based on an understanding and  
10 acknowledgment of the relevant facts, and that is made after  
11 being fully informed by the attending physician of:

- 12 (1) The individual's medical diagnosis and prognosis;
- 13 (2) The potential risks associated with taking the drug to  
14 be prescribed;
- 15 (3) The probable result of taking the drug to be  
16 prescribed;
- 17 (4) The possibility that the individual may choose not to  
18 obtain the drug or may obtain the drug, but may decide  
19 not to ingest it; and



1 (5) The feasible alternatives or additional treatment  
2 opportunities, including comfort care, hospice care,  
3 palliative care, and pain control.

4 "Medically confirmed" means the medical diagnosis and  
5 prognosis of the attending physician has been confirmed by a  
6 consulting physician who has examined the individual and the  
7 individual's relevant medical records.

8 "Mental health specialist assessment" means one or more  
9 consultations between an individual and a mental health  
10 specialist for the purpose of determining that the individual  
11 has the capacity to make medical decisions that affects the  
12 individual and does not suffer from impaired judgment due to a  
13 mental disorder.

14 "Mental health specialist" means a psychiatrist or a  
15 licensed psychologist.

16 "Physician" means a doctor of medicine or osteopathy  
17 currently licensed to practice medicine by the Hawaii medical  
18 board pursuant to chapter 453.

19 "Public place" means any street, alley, park, public  
20 building, any place of business or assembly open to or



1 frequented by the public, and any other place that is open to  
2 the public view, or to which the public has access.

3 "Qualified individual" means an adult who has the capacity  
4 to make medical decisions, is a resident of Hawaii, and has  
5 satisfied the requirements of this chapter to obtain a  
6 prescription for a drug to end the individual's life.

7 "Self-administer" means a qualified individual's  
8 affirmative, conscious, and physical act of administering and  
9 ingesting the aid-in-dying drug to bring about the individual's  
10 own death.

11 "Terminal disease" means an incurable and irreversible  
12 disease that has been medically confirmed and will, within  
13 reasonable medical judgment, result in death within six months.

14 § -2 Request to receive aid-in-dying drug; eligibility;  
15 request to be made solely by individual. (a) An individual who  
16 is an adult with the capacity to make medical decisions and with  
17 a terminal disease may make a request to receive a prescription  
18 for an aid-in-dying drug if:

19 (1) The individual's attending physician has diagnosed the  
20 individual with a terminal disease;



- 1           (2) The individual has voluntarily expressed the wish to  
2           receive a prescription for an aid-in-dying drug;
- 3           (3) The individual is a resident of Hawaii and is able to  
4           establish residency through:
- 5           (A) Possession of a Hawaii driver's license or other  
6           identification issued by the State;
- 7           (B) Registration to vote in Hawaii;
- 8           (C) Evidence that the person owns or leases property  
9           in Hawaii; or
- 10          (D) Filing of a Hawaii tax return for the most recent  
11          tax year;
- 12          (4) The individual documents the request pursuant to the  
13          requirements set forth in section -3; and
- 14          (5) The individual has the physical and mental ability to  
15          self-administer the aid-in-dying drug.
- 16          (b) A person shall not be considered a "qualified  
17 individual" under the provisions of this chapter solely because  
18 of age or disability.
- 19          (c) A request for a prescription for an aid-in-dying drug  
20 under this chapter shall be made solely and directly by the  
21 individual diagnosed with the terminal disease. The request



1 shall not be made on behalf of the patient, through a power of  
2 attorney, an advance health care directive, a conservator,  
3 health care agent, surrogate, or any other legally recognized  
4 health care decision-maker.

5 § -3 Oral and written requests for aid-in-dying drug;  
6 written request requirements; witness requirements. (a) An  
7 individual seeking to obtain a prescription for an aid-in-dying  
8 drug pursuant to this chapter shall submit two oral requests, a  
9 minimum of fifteen days apart, and a written request to the  
10 individual's attending physician. The attending physician shall  
11 directly, and not through a designee, receive all three requests  
12 required pursuant to this section.

13 (b) A valid written request for an aid-in-dying drug under  
14 subsection (a) shall be:

- 15 (1) In the form prescribed in section -11;
- 16 (2) Signed and dated, in the presence of two witnesses, by  
17 the individual seeking the aid-in-dying drug;
- 18 (3) Witnessed by at least two other adult persons who, in  
19 the presence of the individual, shall attest that to  
20 the best of their knowledge and belief the individual  
21 is:



# H.B. NO. 150

- 1           (A) An individual who is personally known to them or  
2           has provided proof of identity;
- 3           (B) An individual who voluntarily signed this request  
4           in their presence;
- 5           (C) An individual whom they believe to be of sound  
6           mind and not under duress, fraud, or undue  
7           influence; and
- 8           (D) Not an individual for whom either of them is the  
9           attending physician, consulting physician, or  
10          mental health specialist.
- 11          (c) Only one of the two witnesses at the time the written  
12 request is signed may:
- 13          (1) Be related to the qualified individual by blood,  
14          marriage, registered domestic partnership, or adoption  
15          or be entitled to a portion of the individual's estate  
16          upon death; or
- 17          (2) Own, operate, or be employed at a health care facility  
18          where the individual is receiving medical treatment or  
19          resides.



1           (d) The attending physician, consulting physician, or  
2 mental health specialist of the individual shall not be one of  
3 the witnesses required by subsection (b) (3).

4           § -4 Withdrawal of request for aid-in-dying drug. (a)  
5 An individual may at any time withdraw or rescind the  
6 individual's request for an aid-in-dying drug, or decide not to  
7 ingest an aid-in-dying drug, without regard to the individual's  
8 mental state.

9           (b) A prescription for an aid-in-dying drug provided under  
10 this chapter shall be written by the attending physician, not  
11 through a designee, who shall offer the individual an  
12 opportunity to withdraw or rescind the request.

13           § -5 Determinations required prior to prescription of  
14 aid-in-dying drug; delivery of aid-in-dying drug. (a) Before  
15 prescribing an aid-in-dying drug, the attending physician shall:

16           (1) Make the initial determination of:

17                   (A) Whether the requesting adult has the capacity to  
18                   make medical decisions:

19                           (i) If there are indications of a mental  
20                           disorder, the physician shall refer the



- 1 individual for a mental health specialist  
2 assessment; or
- 3 (ii) If a mental health specialist assessment  
4 referral is made, no aid-in-dying drugs  
5 shall be prescribed until the mental health  
6 specialist determines that the individual  
7 has the capacity to make medical decisions  
8 and is not suffering from impaired judgment  
9 due to a mental disorder;
- 10 (B) Whether the requesting adult has a terminal  
11 disease;
- 12 (C) Whether the requesting adult has voluntarily made  
13 the request for an aid-in-dying drug pursuant to  
14 sections -2 and -3; and
- 15 (D) Whether the requesting adult is a qualified  
16 individual;
- 17 (2) Confirm that the individual is making an informed  
18 decision by discussing:
- 19 (A) The individual's medical diagnosis and prognosis;  
20 (B) The potential risks associated with ingesting the  
21 requested aid-in-dying drug;



- 1 (C) The probable result of ingesting the aid-in-dying
- 2 drug;
- 3 (D) The possibility that the individual may choose to
- 4 obtain the aid-in-dying drug but not take it; and
- 5 (E) The feasible alternatives or additional treatment
- 6 options, including comfort care, hospice care,
- 7 palliative care, and pain control;
- 8 (3) Refer the individual to a consulting physician for
- 9 medical confirmation of the diagnosis and prognosis,
- 10 and for a determination that the individual has the
- 11 capacity to make medical decisions and has complied
- 12 with the provisions of this chapter;
- 13 (4) Confirm that the qualified individual's request does
- 14 not arise from coercion or undue influence by another
- 15 person by discussing with the qualified individual,
- 16 outside of the presence of any other persons, except
- 17 for an interpreter as required pursuant to this
- 18 chapter, regardless of whether the qualified
- 19 individual is feeling coerced or unduly influenced by
- 20 another person;



- 1           (5) Counsel the qualified individual about the importance  
2           of:  
3           (A) Having another person present when the individual  
4           ingests the aid-in-dying drug prescribed pursuant  
5           to this chapter;  
6           (B) Not ingesting the aid-in-dying drug in a public  
7           place;  
8           (C) Notifying the next of kin of the individual's  
9           request for an aid-in-dying drug. A qualified  
10          individual's request shall not be denied because  
11          the individual declines or is unable to notify  
12          next of kin;  
13          (D) Participating in a hospice program; and  
14          (E) Maintaining the aid-in-dying drug in a safe and  
15          secure location until the time that the qualified  
16          individual will ingest it;  
17          (6) Inform the individual that the individual may withdraw  
18          or rescind the request for an aid-in-dying drug at any  
19          time and in any manner;



# H.B. NO. 150

- 1           (7) Offer the individual an opportunity to withdraw or  
2           rescind the request for an aid-in-dying drug before  
3           prescribing the aid-in-dying drug;
- 4           (8) Verify, immediately before writing the prescription  
5           for an aid-in-dying drug, that the qualified  
6           individual is making an informed decision;
- 7           (9) Confirm that all requirements are met and all  
8           appropriate steps are carried out in accordance with  
9           this chapter before writing a prescription for an aid-  
10          in-dying drug;
- 11          (10) Fulfill the record documentation required by sections  
12               -8,       -9, and       -19;
- 13          (11) Complete the attending physician checklist and  
14          compliance form, as prescribed in section       -22,  
15          include it and the consulting physician compliance  
16          form in the individual's medical record, and submit  
17          both forms to the department; and
- 18          (12) Give the qualified individual the final attestation  
19          form, with the instruction that the form be filled out  
20          and executed by the qualified individual within forty-



1           eight hours prior to the qualified individual choosing  
2           to self-administer the aid-in-dying drug.

3           (b) If the conditions set forth in subsection (a) are  
4 satisfied, the attending physician may deliver the aid-in-dying  
5 drug:

6           (1) By dispensing the aid-in-dying drug directly,  
7           including ancillary medication intended to minimize  
8           the qualified individual's discomfort, if the  
9           attending physician:

10           (A) Is authorized to dispense medicine in Hawaii;

11           (B) Has a current United States Drug Enforcement  
12           Administration certificate; and

13           (C) Complies with all applicable administrative rules  
14           or regulations; or

15           (2) With the qualified individual's written consent, by  
16           contacting a pharmacist, informing the pharmacist of  
17           the prescriptions, and delivering the written  
18           prescriptions personally, by mail, or electronically  
19           to the pharmacist, who may dispense the drug to the  
20           qualified individual, the attending physician, or a  
21           person expressly designated by the qualified



1 individual and with the designation delivered to the  
2 pharmacist in writing or verbally.

3 (c) Delivery of the dispensed drug to the qualified  
4 individual, the attending physician, or a person expressly  
5 designated by the qualified individual may be made by personal  
6 delivery, or, with a signature required on delivery, by United  
7 States Postal Service, messenger service, courier service, or  
8 package delivery service.

9 § -6 Duties performed by consulting physician. Before a  
10 qualified individual obtains an aid-in-dying drug from the  
11 attending physician, the consulting physician shall:

- 12 (1) Examine the individual and relevant medical records;
- 13 (2) Confirm in writing the attending physician's diagnosis  
14 and prognosis;
- 15 (3) Determine that the individual has the capacity to make  
16 medical decisions, is acting voluntarily, and has made  
17 an informed decision;
- 18 (4) If there are indications of a mental disorder, refer  
19 the individual for a mental health specialist  
20 assessment;



1 (5) Fulfill the record documentation required under this  
2 chapter; and

3 (6) Submit the compliance form to the attending physician.

4 **§ -7 Duties to be performed by mental health specialist.**

5 Upon referral from the attending or consulting physician  
6 pursuant to this chapter, the mental health specialist shall:

7 (1) Examine the qualified individual and relevant medical  
8 records;

9 (2) Determine that the individual has the mental capacity  
10 to make medical decisions, act voluntarily, and make  
11 an informed decision;

12 (3) Determine that the individual is not suffering from  
13 impaired judgment due to a mental disorder; and

14 (4) Fulfill the record documentation requirements of this  
15 chapter.

16 **§ -8 Items to be documented in individual's medical**  
17 **record.** Documents in the individual's medical record shall  
18 include:

19 (1) All oral requests for aid-in-dying drugs;

20 (2) All written requests for aid-in-dying drugs;



- 1           (3) The attending physician's diagnosis and prognosis, and  
2           the determination that a qualified individual has the  
3           capacity to make medical decisions, is acting  
4           voluntarily, and has made an informed decision, or  
5           that the attending physician has determined that the  
6           individual is not a qualified individual;
- 7           (4) The consulting physician's diagnosis and prognosis,  
8           and verification that the qualified individual has the  
9           capacity to make medical decisions, is acting  
10          voluntarily, and has made an informed decision, or  
11          that the consulting physician has determined that the  
12          individual is not a qualified individual;
- 13          (5) A report of the outcome and determinations made during  
14          a mental health specialist's assessment, if performed;
- 15          (6) The attending physician's offer to the qualified  
16          individual to withdraw or rescind the individual's  
17          request at the time of the individual's second oral  
18          request; and
- 19          (7) A note by the attending physician indicating that all  
20          requirements under sections       -5 and       -6 have been  
21          met and recording the steps taken to carry out the



1 request, including a notation of the aid-in-dying drug  
2 prescribed.

3 § -9 Submission of qualifying patient's documents to the  
4 department; time requirement. (a) Within thirty calendar days  
5 after writing a prescription for an aid-in-dying drug, the  
6 attending physician shall submit to the department a copy of the  
7 qualifying patient's written request, the attending physician  
8 checklist and compliance form, and the consulting physician  
9 compliance form.

10 (b) Within thirty calendar days after the qualified  
11 individual's death from ingesting the aid-in-dying drug, or any  
12 other cause, the attending physician shall submit the attending  
13 physician follow-up form to the department.

14 § -10 Informed decision by qualified individual. A  
15 qualified individual may not receive a prescription for an aid-  
16 in-dying drug pursuant to this chapter unless the individual has  
17 made an informed decision. Immediately before writing a  
18 prescription for an aid-in-dying drug under this chapter, the  
19 attending physician shall verify that the individual is making  
20 an informed decision.



1           §   -11 Form for aid-in-dying drug request; translation;  
2 final attestation form. (a) A request for an aid-in-dying drug  
3 as authorized by this chapter shall be in the following form:  
4 "REQUEST FOR AN AID-IN-DYING DRUG TO END MY LIFE IN A HUMANE AND  
5 DIGNIFIED MANNER I, ....., am an adult  
6 of sound mind and a resident of the State of Hawaii.  
7 I am suffering from ....., which my attending  
8 physician has determined is in its terminal phase and which has  
9 been medically confirmed.  
10 I have been fully informed of my diagnosis and prognosis, the  
11 nature of the aid-in-dying drug to be prescribed and potential  
12 associated risks, the expected result, and the feasible  
13 alternatives or additional treatment options, including comfort  
14 care, hospice care, palliative care, and pain control.  
15 I request that my attending physician prescribe an aid-in-dying  
16 drug that will end my life in a humane and dignified manner if I  
17 choose to take it, and I authorize my attending physician to  
18 contact any pharmacist about my request.  
19 INITIAL ONE:



1 ..... I have informed one or more members of my family of  
2 my decision and taken their opinions into consideration.

3 ..... I have decided not to inform my family of my  
4 decision.

5 ..... I have no family to inform of my decision.

6 I understand that I have the right to withdraw or rescind this  
7 request at any time.

8 I understand the full import of this request and I expect to die  
9 if I take the aid-in-dying drug to be prescribed. My attending  
10 physician has counseled me about the possibility that my death  
11 may not be immediately upon the consumption of the drug.

12 I make this request voluntarily, without reservation, and  
13 without being coerced.

14 Signed:

15

16 Dated:

17 DECLARATION OF WITNESSES

18 We declare that the person signing this request:

19 (a) is personally known to us or has provided proof of  
20 identity;

21 (b) voluntarily signed this request in our presence;



1 (c) is an individual whom we believe to be of sound mind  
2 and not under duress, fraud, or undue influence; and

3 (d) is not an individual for whom either of us is the  
4 attending physician, consulting physician, or mental health  
5 specialist.

6 .....Witness 1/Date

7 .....Witness 2/Date

8 NOTE: Only one of the two witnesses may be a relative (by blood,  
9 marriage, registered domestic partnership, or adoption) of the  
10 person signing this request or be entitled to a portion of the  
11 person's estate upon death. Only one of the two witnesses may  
12 own, operate, or be employed at a health care facility where the  
13 person is a patient or resident."

14 (b) The written language of the request shall be written  
15 in the same translated language as any conversations,  
16 consultations, or interpreted conversations or consultations  
17 between a patient and the patient's attending or consulting  
18 physicians.

19 The written request may be prepared in English even when  
20 the conversations or consultations or interpreted conversations  
21 or consultations were conducted in a language other than English



1 if the English language form includes an attached interpreter's  
2 declaration that is signed under penalty of perjury. The  
3 interpreter's declaration shall state words to the effect that:  
4 "I, (INSERT NAME OF INTERPRETER), am fluent in English and  
5 (INSERT TARGET LANGUAGE).

6 On (insert date) at approximately (insert time), I read the  
7 "Request for an Aid-In-Dying Drug to End My Life" to (insert  
8 name of individual/patient) in (insert target language).  
9 Mr./Ms. (insert name of patient/qualified individual) affirmed  
10 to me that he/she understood the content of this form and  
11 affirmed his/her desire to sign this form under his/her own  
12 power and volition and that the request to sign the form  
13 followed consultations with an attending and consulting  
14 physician.

15 I declare that I am fluent in English and (insert target  
16 language) and further declare under penalty of perjury that the  
17 foregoing is true and correct.

18 Executed at (insert city, county, and state) on this (insert day  
19 of month) of (insert month), (insert year).

20

21 X \_\_\_\_\_ Interpreter signature



1 X \_\_\_\_\_ Interpreter printed name

2 X \_\_\_\_\_ Interpreter address"

3 The interpreter who provides services pursuant to this  
4 section shall:

5 (1) Not be related to the qualified individual by blood,  
6 marriage, registered domestic partnership, or adoption  
7 or be entitled to a portion of the person's estate  
8 upon death; and

9 (2) Be certified by the judiciary's court interpreter  
10 certification program.

11 (c) The final attestation form given by the attending  
12 physician to the qualified individual at the time the attending  
13 physician writes the prescription shall appear in the following  
14 form:

15 "FINAL ATTESTATION FOR AN AID-IN-DYING DRUG TO END MY LIFE IN A  
16 HUMANE AND DIGNIFIED MANNER I, .....,  
17 am an adult of sound mind and a resident of the State of Hawaii.  
18 I am suffering from ....., which my attending  
19 physician has determined is in its terminal phase and which has  
20 been medically confirmed.



1 I have been fully informed of my diagnosis and prognosis, the  
2 nature of the aid-in-dying drug to be prescribed and potential  
3 associated risks, the expected result, and the feasible  
4 alternatives or additional treatment options, including comfort  
5 care, hospice care, palliative care, and pain control.

6 I have received the aid-in-dying drug and am fully aware that  
7 this aid-in-dying drug will end my life in a humane and  
8 dignified manner.

9 INITIAL ONE:

10 ..... I have informed one or more members of my family of  
11 my decision and taken their opinions into consideration.

12 ..... I have decided not to inform my family of my  
13 decision.

14 ..... I have no family to inform of my decision.

15 My attending physician has counseled me about the possibility  
16 that my death may not be immediately upon the consumption of the  
17 drug.

18 I make this decision to ingest the aid-in-dying drug to end my  
19 life in a humane and dignified manner. I understand I still may  
20 choose not to ingest the drug and by signing this form I am



1 under no obligation to ingest the drug. I understand I may  
2 rescind this request at any time.

3 Signed:

4

5 Dated:

6

7 Time:"

8

9 With regard to the final attestation:

10 (1) Within forty-eight hours prior to the individual self-  
11 administering the aid-in-dying drug, the individual  
12 shall complete the final attestation form. If aid-in-  
13 dying medication is not returned or relinquished upon  
14 the patient's death as required in section -20, the  
15 completed form shall be delivered by the individual's  
16 health care provider, family member, or other  
17 representative to the attending physician to be  
18 included in the patient's medical record; and

19 (2) Upon receiving the final attestation form the  
20 attending physician shall add this form to the medical  
21 records of the qualified individual.



1           §   -12   Validity of contract or will provisions regarding  
2   requests for aid-in-dying drugs. (a) A provision in a  
3   contract, will, or other agreement executed on or after June 30,  
4   2017, whether written or oral, to the extent the provision would  
5   affect whether a person may make, withdraw, or rescind a request  
6   for an aid-in-dying drug is not valid.

7           (b) An obligation owing under any contract executed on or  
8   after June 30, 2017, may not be conditioned or affected by a  
9   qualified individual making, withdrawing, or rescinding a  
10   request for an aid-in-dying drug.

11          §   -13   Sale, procurement, or issuance of policy, accident  
12   and health or sickness insurance, or health benefit plan or rate  
13   charged; prohibition against conditioning policy or rate on  
14   making or rescinding request for aid-in-dying drug; effect of  
15   self-administration of aid-in-dying drugs; communications from  
16   insurance carrier. (a) The sale, procurement, or issuance of a  
17   life, health, or annuity policy, accident and health or sickness  
18   insurance, or health benefit plan, or the rate charged for a  
19   policy or plan contract may not be conditioned upon or affected  
20   by a person making or rescinding a request for an aid-in-dying  
21   drug.



1 Pursuant to section -18, death resulting from the self-  
2 administration of an aid-in-dying drug is not suicide, and  
3 health and insurance coverage shall not be denied on that basis.

4 (b) Notwithstanding any other law to the contrary, a  
5 qualified individual's act of self-administering an aid-in-dying  
6 drug shall not have an effect upon a life, health, or annuity  
7 policy other than that of a natural death from the underlying  
8 disease.

9 (c) An insurance carrier shall not provide any information  
10 in communications made to an individual about the availability  
11 of an aid-in-dying drug absent a request by the individual or  
12 individual's attending physician at the behest of the  
13 individual. Any communication shall not include both the denial  
14 of treatment and information as to the availability of aid-in-  
15 dying drug coverage. For the purposes of this subsection,  
16 "insurance carrier" means a provider of insurance as defined in  
17 chapters 431, 431N, 432, and 432D.

18 § -14 Persons present during self-administration of aid-  
19 in-dying drug; civil or criminal liability; participating health  
20 care provider shall not be subject to discipline or liability;  
21 voluntary participation. (a) Notwithstanding any other law to



1 the contrary, a person shall not be subject to civil or criminal  
2 liability solely because the person was present when the  
3 qualified individual self-administers the prescribed aid-in-  
4 dying drug. A person who is present may, without civil or  
5 criminal liability, assist the qualified individual by preparing  
6 the aid-in-dying drug so long as the person does not assist the  
7 qualified person in ingesting the aid-in-dying drug.

8 (b) A health care provider or professional organization or  
9 association shall not subject an individual to censure,  
10 discipline, suspension, loss of license, loss of privileges,  
11 loss of membership, or other penalty for participating in good  
12 faith compliance with this chapter or for refusing to  
13 participate in accordance with subsection (e).

14 (c) Notwithstanding any other law to the contrary, a  
15 health care provider shall not be subject to civil, criminal,  
16 administrative, disciplinary, employment, credentialing,  
17 professional discipline, contractual liability, or medical staff  
18 action, sanction, or penalty or other liability for  
19 participating in this chapter, including, determining the  
20 diagnosis or prognosis of an individual, determining the  
21 capacity of an individual for purposes of qualifying for the



1 act, providing information to an individual regarding this  
2 chapter, and providing a referral to a physician who  
3 participates in this chapter. Nothing in this subsection shall  
4 be construed to limit the application of, or provide immunity  
5 from, section -16 or -17.

6 (d) A request by a qualified individual to an attending  
7 physician to provide an aid-in-dying drug in good faith  
8 compliance with the provisions of this chapter shall not provide  
9 the sole basis for the appointment of a guardian or conservator.

10 No actions taken in compliance with the provisions of this  
11 chapter shall constitute or provide the basis for any claim of  
12 neglect or elder abuse for any purpose of law.

13 (e) Participation in activities authorized pursuant to  
14 this chapter shall be voluntary.

15 (1) A person or entity that elects, for reasons of  
16 conscience, morality, or ethics, not to engage in  
17 activities authorized pursuant to this chapter is not  
18 required to take any action in support of an  
19 individual's decision under this chapter;

20 (2) Notwithstanding any other law to the contrary, a  
21 health care provider is not subject to civil,



1 criminal, administrative, disciplinary, employment,  
2 credentialing, professional discipline, contractual  
3 liability, or medical staff action, sanction, or  
4 penalty or other liability for refusing to participate  
5 in activities authorized under this chapter, including  
6 refusing to inform a patient of the rights under this  
7 chapter, and not referring an individual to a  
8 physician who participates in activities authorized  
9 under this chapter;

10 (3) If a health care provider is unable or unwilling to  
11 carry out a qualified individual's request under this  
12 chapter and the qualified individual transfers care to  
13 a new health care provider, the individual may obtain  
14 a copy of the individual's medical records.

15 § -15 Health care providers may prohibit employees from  
16 participating in aid-in-dying activities; notification; actions  
17 after a violation; reports of unprofessional conduct. (a)  
18 Subject to subsection (b) and notwithstanding any other law to  
19 the contrary, a health care provider may prohibit its employees,  
20 independent contractors, or other persons or entities, including  
21 other health care providers, from participating in activities



1 under this chapter while on premises owned or under the  
2 management or direct control of that prohibiting health care  
3 provider or while acting within the course and scope of any  
4 employment by, or contract with, the prohibiting health care  
5 provider.

6 (b) A health care provider that elects to prohibit its  
7 employees, independent contractors, or other persons or  
8 entities, including health care providers, from participating in  
9 activities under this chapter, as described in subsection (a),  
10 shall first give notice of the policy prohibiting participation  
11 under this chapter to the individual or entity. A health care  
12 provider that fails to provide notice to an individual or entity  
13 in compliance with this subsection shall not be entitled to  
14 enforce such a policy against that individual or entity.

15 (c) Subject to compliance with subsection (b), the  
16 prohibiting health care provider may take action, as applicable,  
17 against any individual or entity that violates this policy,  
18 including:

19 (1) Loss of privileges, loss of membership, or other  
20 action authorized by the bylaws or rules and  
21 regulations of the medical staff;



- 1           (2) Suspension, loss of employment, or other action  
2                   authorized by the policies and practices of the  
3                   prohibiting health care provider;
- 4           (3) Termination of any lease or other contract between the  
5                   prohibiting health care provider and the individual or  
6                   entity that violates the policy; and
- 7           (4) Imposition of any other nonmonetary remedy provided  
8                   for in any lease or contract between the prohibiting  
9                   health care provider and the individual or entity in  
10                  violation of the policy.
- 11           (d) Nothing in this section shall be construed to prevent,  
12                  or to allow a prohibiting health care provider to prohibit, any  
13                  other health care provider, employee, independent contractor, or  
14                  other person or entity from:
- 15           (1) Participating, or entering into an agreement to  
16                   participate, in activities under this chapter, while  
17                   on premises that are not owned or under the management  
18                   or direct control of the prohibiting provider or while  
19                   acting outside the course and scope of the  
20                  participant's duties as an employee of, or an



# H.B. NO. 150

1 independent contractor for, the prohibiting health  
2 care provider; or

3 (2) Participating, or entering into an agreement to  
4 participate, in activities under this chapter as an  
5 attending physician or consulting physician while on  
6 premises that are not owned or under the management or  
7 direct control of the prohibiting provider.

8 (e) In taking actions pursuant to subsection (c), a health  
9 care provider shall comply with all procedures required by law,  
10 its own policies or procedures, and any contract with the  
11 individual or entity in violation of the policy, as applicable.

12 (f) For purposes of this section:

13 (1) "Notice" means a separate statement in writing  
14 advising of the prohibiting health care provider  
15 policy with respect to participating in activities  
16 under this chapter.

17 (2) "Participating, or entering into an agreement to  
18 participate, in activities under this chapter" means  
19 doing or entering into an agreement to do one or more  
20 of the following:



- 1 (A) Performing the duties of an attending physician
- 2 as specified in section -5;
- 3 (B) Performing the duties of a consulting physician
- 4 as specified in section -6;
- 5 (C) Performing the duties of a mental health
- 6 specialist, in the circumstance that a referral
- 7 to one is made;
- 8 (D) Delivering the prescription for, dispensing, or
- 9 delivering the dispensed aid-in-dying drug
- 10 pursuant to section -5(c); or
- 11 (E) Being present when the qualified individual takes
- 12 the aid-in-dying drug prescribed pursuant to this
- 13 chapter.
- 14 (3) "Participating, or entering into an agreement to
- 15 participate, in activities under this chapter" does
- 16 not include doing, or entering into an agreement to:
- 17 (A) Diagnose whether a patient has a terminal
- 18 disease, informing the patient of the medical
- 19 prognosis, or determining whether a patient has
- 20 the capacity to make decisions;



# H.B. NO. 150

1 (B) Provide information to a patient about this  
2 chapter; or

3 (C) Provide a patient, upon the patient's request,  
4 with a referral to another health care provider  
5 for the purposes of participating in the  
6 activities authorized by this chapter.

7 (g) Complaints or sanctions pursuant to sections 453-7.5  
8 and 453.8 shall not be based on any action taken by a  
9 prohibiting provider pursuant to this section or any action  
10 taken by a health care provider that participates in activities  
11 under this chapter.

12 (h) Nothing in this chapter shall prevent a health care  
13 provider from providing an individual with health care services  
14 that do not constitute participation in this chapter.

15 § -16 Actions a health care provider may not be  
16 sanctioned for; actions outside the scope of employment. (a) A  
17 health care provider may not be sanctioned for:

18 (1) Making an initial determination pursuant to the  
19 standard of care that an individual has a terminal  
20 disease and informing the individual of the medical  
21 prognosis;



- 1           (2) Providing information about the end of life option act
- 2                   to a patient upon the request of the individual; or
- 3           (3) Providing an individual, upon request, with a referral
- 4                   to another physician.

5           (b) A health care provider that prohibits activities in  
6 accordance with section       -15 shall not sanction an individual  
7 health care provider for contracting with a qualified individual  
8 to engage in activities authorized by this chapter if the  
9 individual health care provider is acting outside of the course  
10 and scope of the individual health care provider's capacity as  
11 an employee or independent contractor of the prohibiting health  
12 care provider.

13           (c) Notwithstanding any contrary provision in this  
14 section, the immunities and prohibitions on sanctions of a  
15 health care provider shall be solely reserved for actions of a  
16 health care provider taken pursuant to this chapter.

17 Notwithstanding any contrary provision in this chapter, health  
18 care providers may be sanctioned by their licensing board or  
19 agency for conduct and actions constituting unprofessional  
20 conduct, including failure to comply in good faith with this  
21 chapter.



1           §   -17   Alteration or forgery of request for aid-in-dying  
2   drug; coercion or undue influence; felony punishment; family  
3   relationship. (a) Knowingly altering or forging a request for  
4   an aid-in-dying drug to end an individual's life without the  
5   individual's authorization or concealing or destroying a  
6   withdrawal or rescission of a request for an aid-in-dying drug  
7   is punishable as a class           felony if the act is done with the  
8   intent or effect of causing the individual's death.

9           (b) Knowingly coercing or exerting undue influence on an  
10   individual to request or ingest an aid-in-dying drug for the  
11   purpose of ending the individual's life or to destroy a  
12   withdrawal or rescission of a request, or to administer an aid-  
13   in-dying drug to an individual without the individual's  
14   knowledge or consent, is a class           felony.

15           (c) For purposes of this section, the term "knowingly" is  
16   defined by section 712-206(2).

17           (d) The attending physician, consulting physician, or  
18   mental health specialist shall not be related to the individual  
19   by blood, marriage, registered domestic partnership, or  
20   adoption, or be entitled to a portion of the individual's estate  
21   upon death.



1 (e) Nothing in this section shall be construed to limit  
2 civil liability.

3 (f) The penalties in this section do not preclude criminal  
4 penalties applicable under any law for conduct inconsistent with  
5 the provisions of this section.

6 § -18 Actions not authorized by this chapter. Nothing  
7 in this chapter may be construed to authorize a physician or any  
8 other person to end an individual's life by lethal injection,  
9 mercy killing, or active euthanasia. Actions taken in  
10 accordance with this chapter shall not, for any purposes,  
11 constitute suicide, assisted suicide, homicide, or elder abuse  
12 under the law.

13 § -19 Collection and review of submitted information;  
14 online posting of information. (a) The department shall  
15 collect and review the information submitted pursuant to section  
16 -9. The information collected shall be confidential and shall  
17 be collected in a manner that protects the privacy of the  
18 patient, the patient's family, and any medical provider or  
19 pharmacist involved with the patient under the provisions of  
20 this chapter. The information shall not be disclosed,



1 discoverable, or compelled to be produced in any civil,  
2 criminal, administrative, or other proceeding.

3 (b) On or before July 1, 2018, and each year thereafter,  
4 based on the information collected in the previous year, the  
5 department shall create a report with the information collected  
6 from the attending physician follow-up form and post that report  
7 on the department's internet website. The report shall include  
8 the following information that is provided to the department and  
9 through the department's access to vital statistics:

- 10 (1) The number of people for whom an aid-in-dying  
11 prescription was written;
- 12 (2) The number of known individuals who died each year for  
13 whom aid-in-dying prescriptions were written, and the  
14 cause of death of those individuals;
- 15 (3) For the period commencing January 1, 2018, to and  
16 including the previous year, cumulatively, the total  
17 number of aid-in-dying prescriptions written, the  
18 number of people who died due to use of aid-in-dying  
19 drugs, and the number of those people who died who  
20 were enrolled in hospice or other palliative care  
21 programs at the time of death;



- 1           (4) The number of known deaths in Hawaii from using aid-  
2           in-dying drugs per one thousand deaths in Hawaii;
- 3           (5) The number of physicians who wrote prescriptions for  
4           aid-in-dying drugs; and
- 5           (6) Of people who died due to using an aid-in-dying drug,  
6           demographic percentages organized by the  
7           characteristics of:
- 8           (A) Age at death;
- 9           (B) Education level;
- 10          (C) Race;
- 11          (D) Sex;
- 12          (E) Type of insurance, including whether they had  
13          insurance; and
- 14          (F) Underlying illness.
- 15          (c) The department shall make available the attending  
16          physician checklist and compliance form, the consulting  
17          physician compliance form, and the attending physician followup  
18          form, as described in section -22, by posting on the  
19          department's internet website.
- 20          § -20 Disposal of unused aid-in-dying drugs. A person  
21          who has custody or control of any unused aid-in-dying drugs



1 prescribed pursuant to this chapter after the death of the  
2 patient shall personally deliver the unused aid-in-dying drugs  
3 for disposal by delivering it to the nearest qualified facility  
4 that properly disposes of controlled substances, or if none is  
5 available, shall dispose of it by lawful means in accordance  
6 with guidelines adopted by the department or a federal Drug  
7 Enforcement Administration approved take-back program.

8       § -21 Governmental entity costs incurred due to  
9 termination of qualified individual's own life in public place;  
10 claim against estate. Any governmental entity that incurs costs  
11 resulting from the termination of a qualified individual's own  
12 life pursuant to the provisions of this chapter in a public  
13 place shall have a claim against the estate of the qualified  
14 individual to recover those costs and reasonable attorney fees  
15 related to enforcing the claim.

16       § -22 Attending physician checklist and compliance form,  
17 consulting physician compliance form, and attending physician  
18 followup form; updating of forms. (a) The department shall  
19 adopt by rule the attending physician checklist and compliance  
20 form, the consulting physician compliance form, and the



1 attending physician followup form and publish the forms on the  
2 department's internet website."

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

6 "§461- Compliance with end of life option act.  
7 Notwithstanding any law to the contrary, nothing in this chapter  
8 shall be deemed to prohibit a registered pharmacist from  
9 dispensing medications to a qualified individual, the qualified  
10 individual's attending physician, or an expressly identified  
11 agent of the qualified individual for the purpose of ending the  
12 qualified individual's life, as provided in chapter ."

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

15 "(c) This chapter shall not authorize mercy killing,  
16 assisted suicide, euthanasia, or the provision, withholding, or  
17 withdrawal of health care, to the extent prohibited by other  
18 statutes of this State. Death by the end of life option that is  
19 authorized for qualified individuals by chapter is  
20 authorized."



1           SECTION 4. Section 327H-2, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3           "(b) Nothing in this section shall be construed to:

4           (1) Expand the authorized scope of practice of any  
5           licensed physician;

6           (2) Limit any reporting or disciplinary provisions  
7           applicable to licensed physicians and surgeons who  
8           violate prescribing practices; and

9           (3) Prohibit the discipline or prosecution of a licensed  
10          physician for:

11          (A) Failing to maintain complete, accurate, and  
12          current records that document the physical  
13          examination and medical history of a patient, the  
14          basis for the clinical diagnosis of a patient,  
15          and the treatment plan for a patient;

16          (B) Writing false or fictitious prescriptions for  
17          controlled substances scheduled in the Federal  
18          Comprehensive Drug Abuse Prevention and Control  
19          Act of 1970, 21 United States Code 801 et seq. or  
20          in chapter 329;



- 1 (C) Prescribing, administering, or dispensing  
2 pharmaceuticals in violation of the provisions of  
3 the Federal Comprehensive Drug Abuse Prevention  
4 and Control Act of 1970, 21 United States Code  
5 801 et seq. or of chapter 329;
- 6 (D) Diverting medications prescribed for a patient to  
7 the licensed physician's own personal use; and
- 8 (E) Causing, or assisting in causing, the suicide,  
9 euthanasia, or mercy killing of any individual;  
10 provided that it is not "causing, or assisting in  
11 causing, the suicide, euthanasia, or mercy  
12 killing of any individual" to [~~prescribe,~~]:
- 13 (i) Prescribe, dispense, or administer medical  
14 treatment for the purpose of treating severe  
15 acute pain or severe chronic pain, even if  
16 the medical treatment may increase the risk  
17 of death, so long as the medical treatment  
18 is not also furnished for the purpose of  
19 causing, or the purpose of assisting in  
20 causing, death for any reason[~~-~~]; or



1                   (ii) Prescribe, dispense, or administer medical  
2                   treatment for the purpose of causing death  
3                   unless authorized by the end of life option  
4                   for qualified individuals pursuant to  
5                   chapter \_\_\_\_\_."

6           SECTION 5. Section 334-1, Hawaii Revised Statutes, is  
7 amended as follows:

8           1. By amending the definition of "Dangerous to self" to  
9 read:

10           ""Dangerous to self" means the person recently has:

11           (1) Threatened or attempted suicide or serious bodily  
12           harm[+], but excluding the acts of a qualified  
13           individual pursuant to chapter \_\_\_\_\_ end of life option  
14           act; or

15           (2) Behaved in such a manner as to indicate that the  
16           person is unable, without supervision and the  
17           assistance of others, to satisfy the need for  
18           nourishment, essential medical care, shelter or self-  
19           protection, so that it is probable that death,  
20           substantial bodily injury, or serious physical



1           deilitation or disease will result unless adequate  
2           treatment is afforded."

3           2. By amending the definition of "Imminently dangerous to  
4 self or others" to read:

5           ""Imminently dangerous to self or others" means that,  
6 without intervention, the person will likely become dangerous to  
7 self or dangerous to others within the next forty-five days. A  
8 qualified individual who acts pursuant to chapter end of life  
9 option act is not imminently dangerous to self."

10           SECTION 6. Section 353-13.6, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12           "(b) For the purposes of this section:

13           "Danger of physical harm to others" means likely to cause  
14 substantial physical or emotional injury to another, as  
15 evidenced by an act, attempt, or threat occurring recently or  
16 through a pattern of past behavior that has resulted in the  
17 person being placed in a more restricted setting for the safety  
18 of others in the facility.

19           "Danger of physical harm to self" means the person recently  
20 has threatened or attempted suicide or serious bodily self  
21 injury; or the person recently has behaved in such a manner as



1 to indicate that the person is unable, without supervision and  
2 the assistance of others, to satisfy the need for nourishment,  
3 essential medical care, or self-protection, so that it is  
4 probable that death, substantial bodily injury, or serious  
5 physical or mental debilitation or disease will result unless  
6 adequate treatment is provided. A qualified individual who acts  
7 pursuant to chapter end of life option act is not a danger to  
8 cause physical harm to self."

9 SECTION 7. Section 431:10D-108, Hawaii Revised Statutes,  
10 is amended by amending subsection (b) to read as follows:

11 "(b) No policy of life insurance shall be delivered or  
12 issued for delivery in this State if it contains a provision  
13 [~~which~~] that excludes or restricts liability for death caused in  
14 a certain specified manner or occurring while the insured has a  
15 specified status, except that the policy may contain provisions  
16 excluding or restricting coverage as specified therein in event  
17 of death under any one or more of the following circumstances:

18 (1) Death as a result directly or indirectly of war,  
19 declared or undeclared, or of any act or hazard of  
20 such war;



- 1           (2) Death as a result of aviation under conditions
- 2                 specified in the policy;
- 3           (3) Death as a result of a specified hazardous occupation
- 4                 or occupations;
- 5           (4) Death while the insured is a resident outside of the
- 6                 United States and Canada; or
- 7           (5) Death within two years from the date of issue of the
- 8                 policy as a result of suicide, while sane or
- 9                 insane[-]; provided that death by chapter end of
- 10                life option act shall not be considered suicide for
- 11                purposes of this section."

12           SECTION 8. Section 431:10H-203, Hawaii Revised Statutes,

13 is amended by amending subsection (a) to read as follows:

14           "(a) A policy may not be delivered or issued for delivery

15 in this State as long-term care insurance if the policy limits

16 or excludes coverage by type of illness, treatment, medical

17 condition, or accident, except as follows:

- 18           (1) Preexisting conditions or diseases;
- 19           (2) Mental or nervous disorders; however, this shall not
- 20                 permit exclusion or limitation of benefits on the
- 21                 basis of Alzheimer's disease;



- 1           (3) Alcoholism and drug addiction;
- 2           (4) Illness, treatment, or medical condition arising out
- 3           of:
- 4           (A) War or act of war, whether declared or
- 5           undeclared;
- 6           (B) Participation in a felony, riot, or insurrection;
- 7           (C) Service in the armed forces or units auxiliary
- 8           thereto;
- 9           (D) Suicide (sane or insane), attempted suicide, or
- 10           intentionally self-inflicted injury; provided
- 11           that actions taken pursuant to chapter           end of
- 12           life option act shall not be considered suicide
- 13           or intentionally self-inflicted injury for
- 14           purposes of this section; or
- 15           (E) Aviation (this exclusion applies only to non-
- 16           fare-paying passengers);
- 17           (5) Treatment provided in a government facility (unless
- 18           required by law), services for which benefits are
- 19           available under medicare or other governmental program
- 20           (except medicaid), any state or federal workers'
- 21           compensation, employer's liability, or occupational



1 disease law, or any motor vehicle insurance law,  
2 services provided by a member of the covered person's  
3 immediate family, and services for which no charge is  
4 normally made in the absence of insurance;

5 (6) Expenses for services or items available or paid under  
6 another long-term care insurance or health insurance  
7 policy; or

8 (7) In the case of a qualified long-term care insurance  
9 contract, expenses for services or items to the extent  
10 that the expenses are reimbursable under title XVIII  
11 of the Social Security Act or would be so reimbursable  
12 but for the application of a deductible or coinsurance  
13 amount."

14 SECTION 9. Section 707-700, Hawaii Revised Statutes, is  
15 amended by adding a new definition to be appropriately inserted  
16 and to read as follows:

17 "End of life option" means actions taken pursuant to  
18 chapter by qualified individuals, physicians, mental health  
19 specialists, or pharmacists that results in the death, serious  
20 bodily injury, or suicide of the qualified individual. Nothing



# H.B. NO. 150

1 in this chapter shall be construed to penalize the authorized  
2 participants in the end of life option."

3 SECTION 10. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 11. This Act shall take effect on July 1, 2017.

6 INTRODUCED BY: Gregory T. Adams (By request)

JAN 19 2017



# H.B. NO. 150

**Report Title:**

End of Life Option Act

**Description:**

Establishes a person's ability to choose the End of Life Option when afflicted with a terminal illness; provides safeguards for the affected person; and repeals penalties for participating in the End of Life Option Act.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

