
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that at least thirty
2 states have either enacted or considered enacting laws to allow
3 mentally competent adult residents who have a terminal disease
4 to voluntarily request and receive a prescription medication
5 that would allow the person to die in a peaceful, humane, and
6 dignified manner. Each of the states that have grappled with
7 this issue has done their best to address the concerns of the
8 impassioned voices on each side of the debate.

9 The legislature further finds that Hawaii patients who are
10 terminally ill and mentally capable currently have limited
11 options to end their suffering if the dying process becomes
12 unbearable. Palliative care, VSED (voluntarily stopping eating
13 and drinking), or stopping artificial ventilation or other life-
14 sustaining therapy to advance the dying process are all options
15 a dying individual can choose. However, physicians do not
16 always offer these options to their patients, and more
17 importantly, these options do not always result in a quick or



1 peaceful death. Advances in technology mean that the process of
2 dying can be extended even when no cure or likelihood of
3 successful medical intervention exists. This can often result
4 in terminally ill patients undergoing unremitting pain,
5 discomfort, and an irreversible reduction in their quality of
6 life in their final days.

7 The legislature has closely examined this issue a number of
8 times over the past two decades. Following this long period of
9 evaluation and debate, the legislature believes that it is
10 necessary and appropriate to give patients the ability to choose
11 their own medical care while also ensuring there are robust
12 safeguards in place to prevent any possible abuse. Therefore,
13 the legislature believes that any legislation for patient choice
14 must include all of the following protections for patients:

15 (1) Confirmation by two physicians of the patient's
16 diagnoses, prognosis, and medical competence, and the
17 voluntariness of the patient's request;

18 (2) Two oral requests from the patient, separated by not
19 less than twenty days, and one signed written request
20 that is witnessed by two people, one of whom must be
21 unrelated to the patient;



(3) An additional waiting period between the written request and the writing of the prescription; and

(4) The creation of strict criminal penalties for any person who:

(A) Tampers with a person's request for a prescription pursuant to this Act; or

(B) Coerces a person with a terminal disease to request a prescription.

In addition, the patient at all times should retain the right to rescind the request for medication and be under no obligation to fill the prescription or ingest the medication.

These rigorous safeguards would be the strongest of any state in the nation and will thoroughly protect patients and their loved ones from any potential abuse.

The legislature concludes that adult residents of the State with a terminal disease should have the fundamental right to determine their own medical treatment as they near the end of life, including the right to choose to avoid an unnecessarily prolonged life of pain and suffering.

The purpose of this Act is to allow qualified patients in this State who have a medically confirmed terminal disease with



1 less than three months to live and complete mental capacity to
2 determine their own medical care at the end of their lives.

3 SECTION 2. This Act shall be known and may be cited as the
4 "Our Care, Our Choice Act".

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

8 **"CHAPTER**

9 **OUR CARE, OUR CHOICE ACT**

10 **§ -1 Definitions.** The following terms shall mean as
11 follows:

12 "Adult" means an individual who is eighteen years of age or
13 older.

14 "Assist" means to assist the qualified patient in the
15 administration of a medication, which may include:

- 16 (1) Storing the medication;
17 (2) Opening the medication container;
18 (3) Dispensing the prescribed dosage; and
19 (4) Administering the medication to the qualified patient
20 as directed by the medication's instructions.



1 "Attending physician" means a physician licensed pursuant
2 to chapter 453 who has primary responsibility for the care of
3 the patient and treatment of the patient's terminal disease.

4 "Capable" means that in the opinion of a court or in the
5 opinion of the patient's attending physician or consulting
6 physician, psychiatrist, or psychologist, a patient has the
7 ability to make and communicate health care decisions to health
8 care providers.

9 "Consulting physician" means a physician licensed pursuant
10 to chapter 453 who is qualified by specialty or experience to
11 make a professional diagnosis and prognosis regarding the
12 patient's disease, but who has not previously assumed
13 responsibility for the care of the patient with the attending
14 physician.

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

20 "Department" means the department of health.



1 "Health care facility" shall have the same meaning as in
2 section 323D-2.

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

8 "Informed decision" means a decision by a qualified patient
9 to request and obtain a prescription, which the qualified
10 patient may self-administer or may be assisted in taking by the
11 attending physician, to end the qualified patient's life in a
12 humane and dignified manner. The informed decision shall be
13 based on an appreciation of the relevant facts and after being
14 fully informed by the attending physician of:

- 15 (1) The medical diagnosis;
16 (2) The prognosis;
17 (3) The potential risks associated with taking the
18 medication to be prescribed, including the risks
19 associated with taking the prescription if the
20 attending physician assists in administering the
21 prescription;



(4) The probable result of taking the medication to be prescribed, including the probable result of taking the prescription if the attending physician assists in administering the prescription; and

(5) The feasible alternatives, including but not limited to comfort care, hospice care, and pain control.

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

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

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

"Prescription" means a prescription that the qualified patient may self-administer to end the qualified patient's life; provided that the attending physician may assist in the administration of the prescription to the qualified patient if the qualified patient is unable to self-administer the prescription due to the qualified patient's terminal disease.



1 "Qualified patient" means a capable adult who is a resident
2 of the State and has satisfied the requirements of this chapter
3 in order to obtain a prescription for medication that the
4 qualified patient may self-administer, or may be assisted in
5 taking by the attending physician, to end the qualified
6 patient's life in a humane and dignified manner.

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

10 "Unable to self-administer" means the qualified patient's
11 attending physician has made a determination that the qualified
12 patient is unable to self-administer the prescription due to the
13 qualified patient's terminal disease.

14 **§ -2 Written request for medication; initiated.** (a) An
15 adult who is capable, is a resident of the State, and has been
16 determined by the attending physician and consulting physician
17 to be suffering from a terminal disease, and who has voluntarily
18 expressed the adult's wish to die, may, pursuant to section

19 -9, submit:

20 (1) Two oral requests, a minimum of twenty days apart,

21 and;



(2) One written request, for medication that may be administered for the purpose of ending the adult's life in a humane and dignified manner in accordance with this chapter. The attending physician shall directly, and not through a designee, receive all three requests required pursuant to this section.

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

§ -3 Form of the written request. (a) A valid written request for medication under this chapter shall be substantially in the form described in section -23, signed and dated by the qualified patient and witnessed by at least two individuals who, in the presence of the qualified patient, attest that to the best of their knowledge and belief the qualified patient is of sound mind, acting voluntarily, and is not being coerced to sign the request.

(b) One of the witnesses shall be a person who is not:

(1) A relative of the patient by blood, marriage, or adoption;

(2) A person who at the time the request is signed would be entitled to any portion of the estate of the



qualified patient upon death under any will, trust, or
other legal instrument, or by operation of law; or

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

(c) The qualified patient's attending physician at the
time the request is signed shall not be a witness.

(d) If the qualified patient is a patient in a long-term
care facility at the time the written request is made, one of
the witnesses shall be an individual designated by the facility
who has qualifications specified by the department by rule.

§ -4 Attending physician responsibilities. (a) The
attending physician shall:

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

(2) Request that the patient demonstrate residency
pursuant to section -13;

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

(A) The medical diagnosis;



(B) The prognosis;

(C) The potential risks associated with taking the medication to be prescribed, including the risks associated with taking the prescription if the attending physician assists in administering the prescription;

(D) The probable result of taking the medication to be prescribed, including the probable result of taking the prescription if the attending physician assists in administering the prescription; and

(E) The feasible alternatives, including but not limited to comfort care, hospice care, and pain control;

(4) Refer the patient to a consulting physician for medical confirmation of the diagnosis, and for a determination that the patient is capable and acting voluntarily;

(5) Refer the patient for counseling if appropriate;

(6) Recommend that the patient notify next of kin;



(7) Counsel the patient about the importance of having another person present when the qualified patient self-administers the medication prescribed pursuant to this chapter and of not self-administering the medication in a public place;

(8) Inform the patient that a qualified patient has an opportunity to rescind the request at any time and in any manner, including when the qualified patient is unable to self-administer the prescription, and offer the qualified patient an opportunity to rescind at the time of the qualified patient's second oral request made pursuant to section -9;

(9) Verify, immediately prior to writing the prescription for medication under this chapter, that the qualified patient is making an informed decision;

(10) Fulfill the medical record documentation requirements of section -12;

(11) Ensure that all appropriate steps are carried out in accordance with this chapter prior to writing a prescription for medication to enable a qualified



patient to end the qualified patient's life in a humane and dignified manner; and

(12) Either:

(A) Dispense medications directly, including ancillary medications intended to facilitate the desired effect to minimize the patient's discomfort; provided that the attending physician is authorized to dispense controlled substances pursuant to chapter 329, has a current Drug Enforcement Administration certificate, and complies with any applicable administrative rule; or

(B) With the qualified patient's written consent:

(i) Contact a pharmacist of the qualified patient's choice and inform the pharmacist of the prescription; and

(ii) Transmit the written prescription personally, by mail, or electronically to the pharmacist, who shall dispense the medications to either the qualified patient,



1 the attending physician, or an expressly
2 identified agent of the qualified patient.

3 (b) Notwithstanding any other provision of law, an
4 attending physician may sign the qualified patient's death
5 certificate. The death certificate shall list the terminal
6 disease as the immediate cause of death.

7 (c) An attending physician may assist a qualified patient
8 in administering a prescription if the qualified patient is
9 unable to self-administer the prescription due to the qualified
10 patient's terminal disease.

11 **§ -5 Consulting physician confirmation.** Before a
12 patient is qualified under this chapter, a consulting physician
13 shall examine the patient and the patient's relevant medical
14 records and confirm, in writing, the attending physician's
15 diagnosis that the patient is suffering from a terminal disease,
16 and verify that the patient is capable, is acting voluntarily,
17 and has made an informed decision.

18 **§ -6 Counseling referral.** If, in the opinion of either
19 the attending physician or the consulting physician, a patient
20 may be suffering from a psychiatric or psychological disorder or
21 depression causing impaired judgment, the physician shall refer



1 the patient for counseling. No medication to end a patient's
2 life in a humane and dignified manner shall be prescribed until
3 the person performing the counseling determines that the patient
4 is not suffering from a psychiatric or psychological disorder or
5 depression causing impaired judgment.

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

13 **§ -8 Family notification.** The attending physician shall
14 recommend that the qualified patient notify the next of kin of
15 the qualified patient's request for medication pursuant to this
16 chapter. A qualified patient who declines or is unable to
17 notify next of kin shall not have the qualified patient's
18 request denied for that reason.

19 **§ -9 Written and oral requests.** To receive a
20 prescription for medication that a qualified patient may self-
21 administer, or may be assisted in taking by the attending



1 physician, to end the qualified patient's life in a humane and
2 dignified manner, a qualified patient shall have made an oral
3 request and a written request, and reiterate the oral request to
4 the qualified patient's attending physician not less than twenty
5 days after making the initial oral request. At the time the
6 qualified patient makes the second oral request, the attending
7 physician shall offer the qualified patient an opportunity to
8 rescind the request.

9 **§ -10 Right to rescind request.** A qualified patient may
10 rescind the request at any time and in any manner without regard
11 to the qualified patient's mental state. No prescription for
12 medication under this chapter may be made available pursuant to
13 section -4(a)(12) without the attending physician having
14 offered the qualified patient an opportunity to rescind the
15 request made pursuant to section -9.

16 **§ -11 Waiting periods.** Not less than twenty days shall
17 elapse between the qualified patient's initial oral request and
18 the taking of steps to make available a prescription for
19 medication pursuant to section -4(a)(12). Not less than
20 forty-eight hours shall elapse between the qualified patient's



1 written request and the taking of steps to make available a
2 prescription for medication pursuant to section -4(a)(12).

3 § -12 Medical record; documentation requirements. The
4 following shall be documented or filed in a qualified patient's
5 medical record:

6 (1) All oral requests by the qualified patient for
7 medication to end the qualified patient's life in a
8 humane and dignified manner;

9 (2) All written requests by the qualified patient for
10 medication to end the qualified patient's life in a
11 humane and dignified manner;

12 (3) The attending physician's diagnosis and prognosis and
13 determination that the qualified patient is capable,
14 acting voluntarily, and has made an informed decision;

15 (4) The consulting physician's diagnosis and prognosis and
16 verification that the qualified patient is capable,
17 acting voluntarily, and has made an informed decision;

18 (5) A report of the outcome and determinations made during
19 counseling, if performed;

20 (6) The attending physician's offer to the qualified
21 patient to rescind the patient's request at the time



1 of the qualified patient's second oral request made
2 pursuant to section -9; and

- 3 (7) A note by the attending physician indicating that all
4 requirements under this chapter have been met and
5 indicating the steps taken to carry out the request,
6 including a notation of the medication prescribed.

7 § -13 **Residency requirement.** Only requests made by
8 residents of this State shall be granted under this chapter.
9 Factors demonstrating state residency include but are not
10 limited to:

- 11 (1) Possession of a Hawaii driver's license or civil
12 identification card;
13 (2) Registration to vote in Hawaii;
14 (3) Evidence that the person owns or leases property in
15 Hawaii; or
16 (4) Filing of a Hawaii tax return for the most recent tax
17 year.

18 § -14 **Reporting requirements.** (a) The department shall
19 annually review a sample of records maintained pursuant to this
20 chapter.



1 (b) The department shall require any health care provider,
2 upon dispensing medication pursuant to this chapter, to file a
3 copy of the dispensing record with the department.

4 (c) The department shall adopt rules to facilitate the
5 collection of information regarding compliance with this
6 chapter. Except as otherwise required by law, the information
7 collected shall not be a public record and shall not be made
8 available for inspection by the public. The department shall
9 retain and exercise reasonable care in maintaining the
10 information collected; provided that the information shall not
11 be subject to any disposal or destruction of records
12 requirements.

13 (d) The department shall generate and make available to
14 the public an annual statistical report of information collected
15 under subsection (c).

16 § -15 Disposal of unused medication. A person who has
17 custody or control of any unused medication dispensed under this
18 chapter after the death of a qualified patient shall personally
19 deliver the unused medication for disposal by delivering it to
20 the nearest qualified facility that properly disposes of



1 controlled substances, or if none is available, shall dispose of
2 it by lawful means.

3 **§ -16 Effect on construction of wills or contracts. (a)**

4 No provision in a will or contract, or other agreement, whether
5 written or oral, to the extent the provision would affect
6 whether a person may make or rescind a request for medication to
7 end the person's life in a humane and dignified manner, shall be
8 valid.

9 (b) No obligation owing under any currently existing
10 contract shall be conditioned or affected by the making or
11 rescinding of a request, by a person, for medication to end the
12 person's life in a humane and dignified manner.

13 **§ -17 Insurance or annuity policies.** The sale,
14 procurement, or issuance of any life, health, or accident
15 insurance or annuity policy or the rate charged for any policy
16 shall not be conditioned upon or affected by the making or
17 rescinding of a request, by a person, for medication to end the
18 person's life in a humane and dignified manner. A qualified
19 patient's act of ingesting medication to end the qualified
20 patient's life in a humane and dignified manner shall have no



1 effect upon a life, health, or accident insurance or annuity
2 policy.

3 § -18 **Construction of chapter.** Nothing in this chapter
4 shall be construed to authorize a physician or any other person
5 to end a patient's life by lethal injection, mercy killing, or
6 active euthanasia. Actions taken in accordance with this
7 chapter shall not, for any purpose, constitute suicide, assisted
8 suicide, mercy killing, murder, manslaughter, negligent
9 homicide, or any other criminal conduct under the law.

10 § -19 **Immunities; basis for prohibiting health care**
11 **provider from participation; notification; permissible**
12 **sanctions.** (a) Except as provided in section -20:

13 (1) No person shall be subject to civil or criminal
14 liability or professional disciplinary action for
15 participating or acting in good faith compliance with
16 this chapter, including being present when a qualified
17 patient takes the prescribed medication to end the
18 qualified patient's life in a humane and dignified
19 manner;

20 (2) No professional organization or association or health
21 care provider may subject a person to censure,



1 discipline, suspension, loss of license, loss of
2 privileges, loss of membership, or other penalty for
3 participating or refusing to participate in good faith
4 compliance with this chapter;

5 (3) No request by a qualified patient for or provision by
6 an attending physician of medication in good faith
7 compliance with this chapter shall constitute neglect,
8 harm, self-neglect, or abuse for any purpose of law or
9 provide the sole basis for the appointment of a
10 guardian or conservator;

11 (4) No health care provider shall be under any duty,
12 whether by contract, by statute, or by any other legal
13 requirement, to participate in the provision to a
14 qualified patient of a prescription to end the
15 qualified patient's life in a humane and dignified
16 manner. If a health care provider is unable or
17 unwilling to carry out a patient's request under this
18 chapter, and the patient transfers the patient's care
19 to a new health care provider, the prior health care
20 provider shall transfer, upon request, a copy of the



1 patient's relevant medical records to the new health
2 care provider; and

3 (5) No health care facility shall be subject to civil or
4 criminal liability for acting in good faith compliance
5 with this chapter including but not limited to the
6 designation of a witness for a qualified patient who
7 makes a written request when residing in a long-term
8 care facility pursuant to section -3(d).

9 (b) Notwithstanding any other provision of law, a health
10 care provider may prohibit another health care provider from
11 participating in actions covered by this chapter on the premises
12 of the prohibiting provider if the prohibiting provider has
13 notified the health care provider of the prohibiting provider's
14 policy regarding participation in actions covered by this
15 chapter. Nothing in this subsection shall prevent a health care
16 provider from providing health care services to a patient that
17 do not constitute participation in actions covered by this
18 chapter.

19 (c) Subsection (a) notwithstanding, a health care provider
20 may subject another health care provider to the following
21 sanctions, if the sanctioning health care provider has notified



1 the sanctioned health care provider prior to participation in
2 actions covered by this chapter that it prohibits participation
3 in actions covered by this chapter:

- 4 (1) Loss of privileges, loss of membership, or other
5 sanction provided pursuant to the medical staff
6 bylaws, policies, and procedures of the sanctioning
7 health care provider if the sanctioned health care
8 provider is a member of the sanctioning provider's
9 medical staff and participates in actions covered by
10 this chapter while on the health care facility
11 premises of the sanctioning health care provider, but
12 not including the private medical office of a
13 physician or other health care provider;
- 14 (2) Termination of lease or other property contract or
15 other nonmonetary remedies provided by lease contract,
16 not including loss or restriction of medical staff
17 privileges or exclusion from a provider panel, if the
18 sanctioned health care provider participates in
19 actions covered by this chapter while on the premises
20 of the sanctioning health care provider or on property



1 that is owned by or under the direct control of the
2 sanctioning health care provider; or

3 (3) Termination of contract or other nonmonetary remedies
4 provided by contract if the sanctioned health care
5 provider participates in actions covered by this
6 chapter while acting in the course and scope of the
7 sanctioned health care provider's capacity as an
8 employee or independent contractor of the sanctioning
9 health care provider; provided that nothing in this
10 paragraph shall be construed to prevent:

11 (A) A health care provider from participating in
12 actions covered by this chapter while acting
13 outside the course and scope of the health care
14 provider's capacity as an employee or independent
15 contractor; or

16 (B) A patient from contracting with the patient's
17 attending physician and consulting physician to
18 act outside the course and scope of the
19 physician's capacity as an employee or
20 independent contractor of the sanctioning health
21 care provider.



(d) A health care provider that imposes sanctions pursuant to subsection (c) shall follow all due process and other procedures the sanctioning health care provider may have that are related to the imposition of sanctions on another health care provider.

(e) For the purposes of this section:

"Notify" means a separate statement in writing to the health care provider specifically informing the health care provider prior to the health care provider's participation in actions covered by this chapter of the sanctioning health care provider's policy regarding participation in actions covered by this chapter.

"Participate in actions covered by this chapter" means to perform the duties of an attending physician pursuant to section -4, the consulting physician function pursuant to section -5, or the counseling referral function pursuant to section -6. The term does not include:

(1) Making an initial determination that a patient has a terminal disease and informing the patient of the medical prognosis;



(2) Providing information about this chapter to a patient upon the request of the patient;

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

(4) A patient contracting with the patient's attending physician and consulting physician to act outside of the course and scope of the physician's capacity as an employee or independent contractor of the sanctioning health care provider.

(f) Action taken pursuant to sections -4 to -6 shall not be the sole basis for disciplinary action under section 453-8.

(g) This chapter shall not be construed to allow a lower standard of care for patients in the community where the patient is treated or in a similar community.

§ -20 Prohibited acts; penalties. (a) A person who intentionally alters or forges a request for medication without the authorization of a qualified patient or conceals or destroys a rescission of that request to cause the patient's death shall be guilty of a class A felony.



1 (b) A person who coerces or exerts undue influence on a
2 qualified patient to request medication for the purpose of
3 ending the patient's life, or to destroy a rescission of the
4 request, shall be guilty of a class A felony.

5 (c) A person who:

6 (1) Intentionally alters, forges, conceals, or destroys a
7 request for medication, a rescission of that request,
8 or any other evidence or document reflecting a
9 qualified patient's desires and interests;

10 (2) Without authorization of a qualified patient; and

11 (3) With the intent and effect of causing a withholding or
12 withdrawal of life-sustaining procedures or of
13 artificially administered nutrition and hydration that
14 hastens the death of the qualified patient,

15 shall be guilty of a class A felony.

16 (d) Except as provided in subsection (c), it shall be a
17 misdemeanor for a person without authorization of a qualified
18 patient to intentionally alter, forge, conceal, or destroy a
19 request for medication, a rescission of that request, or any
20 other evidence or document reflecting the qualified patient's



1 desires and interests with the intent or effect of affecting a
2 health care decision.

3 (e) Nothing in this section shall limit any liability for
4 civil damages resulting from any negligent conduct or
5 intentional misconduct by any person.

6 (f) The penalties in this chapter are cumulative and do
7 not preclude criminal penalties pursuant to other applicable
8 state law.

9 § -21 Claims by governmental entity for costs incurred.

10 Any government entity that incurs costs resulting from a person
11 terminating the person's life pursuant to this chapter in a
12 public place shall have a claim against the estate of the person
13 to recover costs and reasonable attorneys' fees related to
14 enforcing the claim.

15 § -22 Severability. Any provision of this chapter that
16 is held invalid as to any person or circumstance shall not
17 affect the application of any other provision of this chapter
18 that can be given full effect without the invalid provision or
19 application.



1 § -23 Form of the request. A request for a medication
2 as authorized by this chapter shall be in substantially the
3 following form:

4 "REQUEST FOR MEDICATION TO END MY LIFE IN A HUMANE AND DIGNIFIED
5 MANNER

6 I, _____, am an adult of sound mind.

7 I am suffering from _____, which my attending
8 physician has determined is a terminal disease and that has been
9 medically confirmed by a consulting physician.

10 I have been fully informed of my diagnosis, prognosis, the
11 nature of medication to be prescribed and potential associated
12 risks, the expected result, and the feasible alternatives,
13 including comfort care, hospice care, and pain control.

14 I request that my attending physician prescribe medication
15 that I may self-administer to end my life in a humane and
16 dignified manner; provided that my attending physician may
17 assist in the administration of the prescription if I am unable
18 to self-administer the prescription due to my terminal disease.

19 INITIAL ONE:

20 _____ I have informed my family of my decision and
21 taken their opinions into consideration.



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

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

4 I understand that I have the right to rescind this request
5 at any time and in any manner.

6 I understand the full import of this request and I expect
7 to die when I take the medication to be prescribed. I further
8 understand that although most deaths occur within three hours,
9 my death may take longer and my attending physician has
10 counseled me about this possibility.

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

13 Signed: _____

14 Dated: _____

15 DECLARATION OF WITNESSES

16 We declare that the person signing this request:

17 (a) Is personally known to us or has provided proof of
18 identity;

19 (b) Signed this request in our presence;



(c) Appears to be of sound mind and not under duress or to have been induced by fraud, or subjected to undue influence when signing the request; and

(d) Is not a patient for whom either of us is the attending physician.

_____ Witness 1 Date _____

_____ Witness 2 Date _____

NOTE: One witness shall not be a relative (by blood, marriage, or adoption) of the person signing this request, shall not be entitled to any portion of the person's estate upon death and shall not own, operate, or be employed at a health care facility where the person is a patient or resident. If the patient is an inpatient at a long-term care facility, one of the witnesses shall be an individual designated by the facility who has qualifications specified by the Department of Health by rule."

§ -24 Annual report. The department shall submit to the legislature an annual report no later than twenty days prior to the convening of each regular session. The report shall include but not be limited to:



- 1 (1) An annual statistical report of the information
2 collected pursuant to section -14(d);
3 (2) An annual analysis of the implementation of this
4 chapter, including any implementation problems; and
5 (3) Any proposed legislation."

6 SECTION 4. Section 327E-13, Hawaii Revised Statutes, is
7 amended by amending subsection (c) to read as follows:

8 "(c) This chapter shall not authorize mercy killing,
9 assisted suicide, euthanasia, or the provision, withholding, or
10 withdrawal of health care, to the extent prohibited by other
11 statutes of this State[-]; provided that this subsection shall
12 not apply to actions covered by chapter ."

13 SECTION 5. Section 327H-2, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

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

- 16 (1) Expand the authorized scope of practice of any
17 licensed physician;
18 (2) Limit any reporting or disciplinary provisions
19 applicable to licensed physicians and surgeons who
20 violate prescribing practices; and



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

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

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

(C) Prescribing, administering, or dispensing pharmaceuticals in violation of the provisions of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 United States Code 801 et seq. or of chapter 329;

(D) Diverting medications prescribed for a patient to the licensed physician's own personal use; and



1 (E) Causing, or assisting in causing, the suicide,
2 euthanasia, or mercy killing of any individual;
3 provided that:

4 (i) It is not "causing, or assisting in causing,
5 the suicide, euthanasia, or mercy killing of
6 any individual" to prescribe, dispense, or
7 administer medical treatment for the purpose
8 of treating severe acute pain or severe
9 chronic pain, even if the medical treatment
10 may increase the risk of death, so long as
11 the medical treatment is not also furnished
12 for the purpose of causing, or the purpose
13 of assisting in causing, death for any
14 reason[-]; and

15 (ii) This subparagraph shall not apply to actions
16 covered by chapter ."

17 SECTION 6. Section 707-701.5, Hawaii Revised Statutes, is
18 amended by amending subsection (1) to read as follows:

19 "(1) Except as provided in section 707-701, a person
20 commits the offense of murder in the second degree if the person
21 intentionally or knowingly causes the death of another



1 person[-]; provided that this section shall not apply to actions
2 covered by chapter _____."

3 SECTION 7. Section 707-702, Hawaii Revised Statutes, is
4 amended by amending subsection (1) to read as follows:

5 "(1) A person commits the offense of manslaughter if:

6 (a) The person recklessly causes the death of another
7 person; or

8 (b) The person intentionally causes another person to
9 commit suicide[-];

10 provided that this section shall not apply to actions covered by
11 chapter _____."

12 SECTION 8. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 9. If any provision of this Act, or the
16 application thereof to any person or circumstance, is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act that can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.



H.B. NO. 2736

1 SECTION 10. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 11. This Act shall take effect upon its approval;
4 provided that on June 30, 2023, this Act shall be repealed and
5 sections 327E-13, 327H-2, 707-701.5, and 707-702, Hawaii Revised
6 Statutes, shall be reenacted in the form in which they read on
7 the day prior to the effective date of this Act.

8

INTRODUCED BY:

A large, stylized handwritten signature in black ink, appearing to read "John M. T. [unclear]". The signature is written over a horizontal line.

JAN 24 2018



H.B. NO. 2736

Report Title:

Health; Our Care, Our Choice

Description:

Establishes a regulatory process under which an adult resident of the State with a medically confirmed terminal disease and less than three months to live may choose to obtain a prescription for medication to end the patient's life. Imposes criminal sanctions for tampering with a patient's request for a prescription or coercing a patient to request a prescription. Sunsets on June 30, 2023.

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

