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## A BILL FOR AN ACT

RELATING TO MEDICAL INFORMED CONSENT.

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

- 1           SECTION 1. Section 671-3, Hawaii Revised Statutes, is  
2 amended to read as follows:
- 3           "**§671-3 Informed consent.** (a) The Hawaii medical board  
4 [~~may~~] shall establish standards for health care providers to  
5 follow in giving information to a patient, or to a patient's  
6 guardian or legal surrogate if the patient lacks the capacity to  
7 give an informed consent, to ensure that the patient's consent  
8 to treatment is an informed consent. The standards shall be  
9 consistent with [~~subsection~~] subsections (b) and (c) and may  
10 include:
- 11           (1) The substantive content of the information to be  
12           given;
- 13           (2) The manner in which the information is to be given by  
14           the health care provider; and
- 15           (3) The manner in which consent is to be given by the  
16           patient or the patient's guardian or legal surrogate.



1           (b) The following information shall be supplied to the  
2 patient or the patient's guardian or legal surrogate prior to  
3 obtaining consent to a proposed medical or surgical treatment or  
4 a diagnostic or therapeutic procedure:

- 5           (1) The condition to be treated;
- 6           (2) A description of the proposed treatment or procedure;
- 7           (3) The intended and anticipated results of the proposed  
8           treatment or procedure;
- 9           (4) The recognized alternative treatments or procedures,  
10           including the option of not providing these treatments  
11           or procedures;
- 12           (5) The recognized material risks of serious complications  
13           or mortality associated with:
  - 14           (A) The proposed treatment or procedure;
  - 15           (B) The recognized alternative treatments or  
16           procedures; and
  - 17           (C) Not undergoing any treatment or procedure; and
- 18           (6) The recognized benefits of the recognized alternative  
19           treatments or procedures.

20           (c) Informed consent to a proposed medical or surgical  
21 treatment or a diagnostic or therapeutic procedure shall be



1 obtained from the patient or the patient's guardian or legal  
2 surrogate prior to the date that treatment or procedure is to  
3 take place; provided that if the proposed procedure or treatment  
4 is to take place on the same day on which it is scheduled, the  
5 informed consent shall be obtained at the time the decision is  
6 made to schedule that procedure or treatment. A confirmation of  
7 the informed consent that was previously acquired may be  
8 obtained by the treating health care provider from the patient  
9 or patient's guardian or legal surrogate on the day of the  
10 treatment or procedure.

11 [~~e~~] (d) On or before January 1, 1984, the Hawaii medical  
12 board shall establish standards for health care providers to  
13 follow in giving information to a patient or a patient's  
14 guardian, to ensure that the patient's consent to the  
15 performance of a mastectomy is an informed consent. The  
16 standards shall include the substantive content of the  
17 information to be given, the manner in which the information is  
18 to be given by the health care provider and the manner in which  
19 consent is to be given by the patient or the patient's guardian.  
20 The substantive content of the information to be given shall



1 include information on the recognized alternative forms of  
2 treatment.

3 ~~[(d)]~~ (e) Nothing in this section shall require informed  
4 consent from a patient or a patient's guardian or legal  
5 surrogate when emergency treatment or an emergency procedure is  
6 rendered by a health care provider and the obtaining of consent  
7 is not reasonably feasible under the circumstances without  
8 adversely affecting the condition of the patient's health.

9 ~~[(e)]~~ (f) For purposes of this section, "legal surrogate"  
10 means an agent designated in a power of attorney for health care  
11 or surrogate designated or selected in accordance with chapter  
12 327E."

13 SECTION 2. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act shall take effect on July 1, 2019.

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INTRODUCED BY:

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JAN 18 2019



# H.B. NO. 271

**Report Title:**

Medical Informed Consent; Timing; Hawaii Medical Board; Standards

**Description:**

Requires the Hawaii medical board to establish standards for health care providers to follow to ensure that a patient's consent to treatment is an informed consent. Requires that informed consent for a proposed medical or surgical treatment or a diagnostic or therapeutic procedure be obtained prior to the day of that treatment or procedure. Specifies that if the treatment or procedure is to occur on the same day it is scheduled, the informed consent shall be obtained at the time the decision is made to schedule that treatment or procedure.

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