Testimony of the Board of Nursing

Before the
Senate Committee on Judiciary
Thursday, February 25, 2021
9:30 a.m.
Via Videoconference

On the following measure:
S.B. 839, S.D. 1, RELATING TO HEALTH

<u>WRITTEN TESTIMONY ONLY</u>

Chair Rhoads and Members of the Committee:

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

The purposes of this bill are to: (1) authorize APRNs, in addition to physicians, to practice medical aid in dying in accordance with their scope of practice and prescribing authority; (2) authorize psychiatric mental health nurse practitioners and clinical nurse specialists, in addition to psychiatrists, psychologists, and clinical social workers, to provide counseling to a qualified patient; (3) reduce the mandatory waiting period between oral requests from 20 days to 15 days; and (4) waive the mandatory waiting period for those terminally ill individuals not expected to survive the mandatory waiting period.

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

The Board also appreciates how S.D. 1 amends the definition of "counseling" to authorize a "psychiatric mental health nurse practitioner, or clinical nurse specialist" to consult with a patient to determine whether the patient is capable of making an informed

decision regarding ending the patient's life. There are four categories of APRNs (nurse practitioner, clinical nurse specialist, certified nurse midwife, and certified registered nurse anesthetist), and nurse practitioners or clinical nurse specialists whose practice specialty is in psychiatric mental health may provide consultative services in psychiatric mental health.

Thank you for the opportunity to testify on this bill.

Written Testimony Presented Before the
COMMITTEE ON JUDICIARY
DATE: Thursday, February 25, 2021
TIME: 9:30 a.m.
PLACE: VIA VIDEOCONFERENCE
By
Laura Reichhardt, APRN, AGPCNP-BC
Director, Hawaiʻi State Center for Nursing
University of Hawaiʻi at Mānoa

Comments on SB839, SD1

Chair Rhoads, Vice Chair Keohokalole, and members of the Senate Committee on Judiciary, thank you for the opportunity for the Hawaiʻi State Center for Nursing to provide Comments on Section 2 of this measure which, if enacted, would enable Advanced Practice Registered Nurses (APRNs) to participate as an attending, consulting, and counseling provider in the Our Care, Our Choice Program.

Advanced Practice Registered Nurses have more than doubled in Hawaiʻi between 2005 and 2017 with continued growth since that period. At this time, nearly 1,300 licensed APRNs reside in Hawaiʻi. APRNs are noted in national research to be more likely to provide care to underserved people and communities including rural areas, urban areas, to women, and to Medicaid recipients or uninsured people (Buerhaus et al., 2014). Currently there are practicing APRNs in all regions of Hawaiʻi with more than 25% of Hawaiʻi's APRNs are working in rural areas (Hawaiʻi State Center for Nursing, 2017). Further, the majority of APRNs working in the Counties of Hawaiʻi, Maui, and Kauaʻi work in federally designated medically underserved areas.

Hawaiʻi adopted the national best practices for APRN regulation, the APRN Consensus Model (2008), which states that licensure, accreditation, and certification combined provide guidance on an APRN's scope of practice. APRNs include Nurse Practitioners, Clinical Nurse Specialists, Certified Nurse Midwives, and Certified Registered Nurse Anesthetists. APRNs are educated from accredited schools of nursing in one of the four roles and in at least one of six population foci: family/individual across the lifespan, adult-gerontology, pediatrics, neonatal, women's health/gender-related, or psych/mental health. Upon achieving national certification in their educated role and population foci, only then may an APRN apply for licensure. Hawaiʻi law (§457-2.7) defines APRN scope of practice to include advanced assessment and the diagnosis, prescription, selection, and administration of therapeutic measures including over the counter drugs, legend drugs, and controlled substances within the advanced practice registered nurse's role and specialty-appropriate education and certification.

Hawaiʻi's laws for APRNs ensure public safety during patient care through authorized assessment, diagnosis, and prescriptive authority. APRNs have grown significantly in Hawaiʻi with APRNs providing care in all regions in the state where people live.

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

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Hawai'i Association of Professional Nurses (HAPN)

To: The Honorable Senator Karl Rhoads, Chair of the Senate Committee on Judiciary

From: Hawaii Association of Professional Nurses (HAPN)
Subject: SB839 SD1 – Relating to Health

Hearing: February 25, 2021, 9:30a.m.

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

Thank you for the opportunity to submit testimony regarding SB839. HAPN is in **strong Support with Amendments** of placing choice in the hands of patients with whom we work every day, which includes patient choice in who their provider is when making a decision of this magnitude. We have reviewed the recommendations made by the Department of Health to include Advanced Practice Registered Nurses (APRN) to practice medical aid in dying in accordance with their scope of practice. We also support reducing the mandatory waiting period to 15 days and allowing the provider to waive this waiting period as they deem appropriate after evaluation and discussion with the patient about their options. We request that Section 2.4 be amended to state "…or psychiatric mental health advanced practice registered nurse…" as this is in line with the license we hold.

HAPN's mission, to be the voice of APRNs in Hawaii, has been the guiding force that propelled us to spearhead the advancement of patients' access to healthcare as well as supporting the recognition of the scope of practice for APRNs in Hawaii which led us to full practice authority. We have worked to improve the physical and mental health of our communities. As our ability to provide close care with our patients progressed, we also opened up our own clinics to provide the care our patients deserve. As a result, the current law requires that a patient remove themselves from the excellent care their APRN has provided them over the years to discuss this end-of-life option with physicians who may not have the same patient-provider relationship. APRNs have played an important role in the healthcare of our communities and we will continue to be by our patients' side as they make many different healthcare decisions throughout their lives. There have been clear indications that patients on our rural islands have been having difficulty finding healthcare professionals to support them in their legal right: https://www.hawaiitribune-herald.com/2020/11/15/opinion/aid-in-dying-shouldnt-be-this-difficult-in-east-hawaii/. We support the recommendations from our partners at the Department of Health in their assessment and evaluation of this issue.

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

Respectfully,
Dr. Jeremy Creekmore, APRN
HAPN President

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

Hawaiʻi Psychological Association

For a Healthy Hawaiʻi

P.O. Box 833 www.hawaiipsychology.org Phone: (808) 521 -8995
Honolulu, HI 96808

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Tuesday, February 23, 2021 - 9:45 am – via videoconference

Testimony in Support of SB839 SD1 - RELATING TO HEALTH

The Hawaii Psychological Association (HPA) strongly supports SB839 SD1, which would give advanced practice registered nurses (APRNs), psychiatric mental health nurse practitioners, and clinical nurse specialists the authority to engage in certain medical aid in dying services, as well as reduce the waiting time for patients to be eligible for the program.

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

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

The bill also reduces the mandatory waiting period between oral requests for medication from 20 days to 15 days, and waives the waiting period for those not expected to live that long. HPA supports this change in the law as it will reduce the chance that a patient will die before receiving counseling.

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

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

Sincerely,

Alex Lichton, Ph.D.

Alex Lichton, Ph.D.
Chair, HPA Legislative Action Committee

Testimony of Sam Trad, Hawai'i State Director, Compassion & Choices
Supportive Testimony Regarding SB 839 SD 1
Senate Judiciary Committee

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

Thank you for passing the Our Care, Our Choice Act, which has provided peace of mind to the terminally ill over the last two years it has been in effect; and thank you for your consideration of SB 839 SD1. We are here today and pleased to offer our support for these crucial amendments to the Our Care, Our Choice Act.

This legislation is based on the suggested amendments the Department of Health has made to the legislature. Just one year into implementation of the Hawai'i Our Care, Our Choice Act, the Department of Health conducted an analysis of the implementation of the law by soliciting input from the medical community. A subsequent report to the legislature[1] found that while compassionately implemented, some of the well intentioned regulatory requirements outlined in the Act are creating unintended barriers and unnecessary burdens in care. Coupled with the state's well-known severe physician shortage,[2] especially on neighbor islands,[3][4] these collective barriers have made it very difficult for terminally ill patients seeking to access medical aid in dying. Unfortunately, many individuals died with needless suffering while attempting to navigate the process. In fact, we know from local healthcare systems that at least 21 eligible

[1] Report to the Thirtieth Legislature, An Analysis of the analysis of the Implementation of the Our Care, Our Choice Act, Available from:
https://health.hawaii.gov/opppd/files/2020/06/2020-Annual-OCCOA-Report-1.pdf
[2] Why the Doctor Shortage Continues in Hawai'i, Big Island Now, June 5, 2019. Accessed at:
https://bigislandnow.com/2019/06/05/why-the-doctor-shortage-continues-in-Hawai'i/
[3] Physician shortage takes a troubling turn for the worse, John A. Burns School of Medicine University of Hawai'i at Mānoa, September 10th, 2019. Accessed at:
https://jabsom.hawaii.edu/hawaii-doctor-shortage-takes-a-troubling-turn-for-the-worse/
[4] Hawai'i's doctor shortage is taking 'a troubling turn for the worse,' Hawai'i News Now, June 5, 2019. Accessed at:
https://www.Hawai'inewsnow.com/2019/09/10/Hawai'is-doctor-shortage-is-taking-troubling-turn-worse/

patients who wanted the option of medical aid in dying died during the mandatory waiting period, unable to have the peaceful end of life experience they wanted.[5]

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

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

Additionally, this bill seeks to reduce the current mandatory 20 day waiting period between oral requests to 15 days, further reducing the unnecessary burden on the terminally ill seeking this option.

<u>Expediting the mandatory minimum waiting period as they now do in Oregon</u>
The data and experience have long demonstrated that barriers exist throughout the nine other authorized jurisdictions, which have less restrictive measures in place than currently exist in Hawai'i. In response to the evidence compiled over the last 21 years of practice, the Oregon legislature passed an amendment to the law in an attempt to find a better balance between safeguards intended to protect patients and access to medical aid in dying in 2019. The amendment (SB579) gives doctors the ability to waive the current mandatory minimum 15-day waiting period between the two required oral requests and the 48-hour waiting period after the required written request before the prescription can be provided, if they determine and attest that the patient is likely to die while waiting.[6] The amendment was a direct result of evidence and data that clearly demonstrated the need for easier access for eligible terminally ill patients facing imminent death.[7]

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[5] Susan Amina, NP, Kaiser HI, OCOCA panel on 1.13.21; Michelle Cantillo R.N., Advance Care Planning Coordinator, HPH, OCOCA panel on 1.13.21.
[6] Senate Bill 579, 80th Oregon Legislative Assembly--2019 Regular Session. Available from: https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/SB579/Enrolled
[7] Report to the Thirtieth Legislature, Hawai'i Department of Health. Accessed at: https://health.hawaii.gov/opppd/files/2020/06/2020-Annual-OCCOA-Report-1.pdf

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

Hawai'i is one of 24 states that give advanced practice registered nurses (APRNs) authority to independently carry out all medical acts consistent with their education and training, including prescribing all forms of medication, including controlled substances.[8] However, by not including APRNs within the definition of "provider," the Our Care, Our Choice Act unnecessarily prohibits APRNs from providing high quality health care and support to patients who want the option of medical aid in dying. Amending the law to explicitly allow APRNs to participate as providers under the Our Care, Our Choice Act is consistent with their scope of practice and would help address the disparity in access to participating providers, particularly in rural areas and neighboring islands. For example, Ron Meadow, who lived on the Big Island, was terminally ill and eligible for the Our Care, Our Choice Act, spent his final weeks searching for a physician who would support him in the option of medical aid in dying, so he could end his suffering. Sadly, by the time he found a physician it was too late and Ron died in pain in exactly the way he did not want. Allowing APRNs to support patients in medical aid in dying will provide patients, like Ron, with more options to access this compassionate option.

Reducing the 20 day waiting period to 15 days and allowing attending providers to waive the mandatory waiting period if the patient is unlikely to survive and meets all other qualifications.

Hawai'i currently has the longest mandatory waiting period (20 days) between the first and second oral requests for medical aid in dying, of the 10 authorized U.S. jurisdictions. Hawai'i physicians have said that their eligible terminally ill patients are suffering terribly at the end of life and are not surviving the 20-day mandatory waiting period between oral requests.[9] The Hawai'i Department of Health's report on the first five months of the law showed "the eligibility process from the first oral request to the date of receipt of the written prescription was approximately 37 days" for the eight people who received them from four physicians.[10] Sadly, this is not an uncommon occurrence, even in the other authorized states with a 15 day waiting period. This experience is why Oregon recently amended its Death with Dignity law to allow the attending provider to waive the mandatory waiting period entirely if the patient is unlikely to survive it.[11] Both reducing the waiting period and allowing it to be waived in such circumstances will better ensure that otherwise qualified terminally ill individuals are not

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[8] American Association of Nurse Practitioners, "2021 Nurse Practitioner State Practice Environment" available from: https://storage.aanp.org/www/documents/advocacy/State-Practice-Environment.pdf.

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

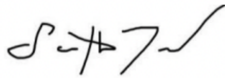
[10] Hawai'i Department of Health (DOH) 2019 Our Care Our Choice Annual Report, July 1, 2019. Accessed at: https://health.Hawai'i.gov/opppd/files/2019/06/2019-Annual-OCOCA-Report-062819.pdf

[11] New law shortens 'Death With Dignity' waiting period for some patients, The Oregonian, Jul 24, 2019. Accessed at: www.oregonlive.com/politics/2019/07/new-law-shortens-death-with-dignity-waiting-period-for-some-patients.html

deprived of the comfort and peace of mind they so desire at life's end simply for the sake of checking a regulatory box.

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

Sincerely,



Sam Trad
Hawai'i State Director
Compassion & Choices

SB-839-SD-1
Submitted on: 2/22/2021 5:51:38 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Charles F Miller	Testifying for Hawaii Society of Clincal Oncology	Support	No

Comments:

Dear Chairman Rhoads and all other members of the Senate Judiciary Committee,

I'm a medical oncologist and I'm writing to you today to urge you to support SB839 which makes very necessary improvements to the Our Care, Our Choice Act.

I have been an active physician participant in The Our Care, Our Choice Act for over 2 years now. Yet many eligible terminally ill patients are having trouble accessing the law, causing needless suffering. Since the first of January, 2021, I have received 13 referrals for medical aid in dying, yet 5 out of those thirteen patients died of their underlying medical conditions before the required 20 day waiting period. We know from Kaiser HI and Hawai'i Pacific Health, that at least 23 eligible patients died before they could get their medication. Providers should be allowed to waive the waiting period for their patients if in their professional judgement the patient is unlikely to survive it and goes through all of the other required steps to qualify for the law. This is inexcusable and one of the problems that these amendments will address.

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

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

Sincerely,

Charles F. Miller, MD, FACP, FASCO

Board Member, Hawaii Society of Clinical Oncology

Honolulu, HI

Submitted Online: February 23, 2021

HEARING: Thursday, February 25, 2021

TO: SENATE COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

FROM: Eva Andrade, President

RE: Opposition to SB 839 SD1 Relating to Health

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

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

We expressed our strong opposition when the Our Care Our Choice Act was passed in 2018 because we were (and still are) very concerned about abuse of the law, primarily against frail elders and other vulnerable patients. To alleviate our concerns, many legislators assured us that the "rigorous safeguards will be the strongest of any state in the nation and will protect patients and their loved ones from any potential abuse[i]." Therefore, we are disheartened to see that although we are only into year three of the law, these safeguards are already being removed or modified.

An editorial printed in February of 2020, in the Star Advertiser, articulated the concerns we still have to this day: "In some respects, the changes would push Hawaii into the forefront. Eight other states and the District of Columbia allow medical aid in dying, but Hawaii would be the first to allow APRNs as well as physicians to participate. And Oregon, which legalized aid-in-dying more than 20 years ago, is the only state with a law that allows physicians to waive the waiting period — a change it made just last July, so the full effects may not be known for some time. Is changing the law an act of compassion, making this legal right more accessible to suffering patients? Or could it make the option less safe for patients who might change their minds? Lawmakers, move with care.[ii]" (Emphasis mine).

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

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[i] https://www.capitol.hawaii.gov/session2018/bills/HB2739_HD1_.HTM
[ii] https://www.staradvertiser.com/2020/02/08/editorial/our-view/editorial-secrecy-in-police-reports/ (accessed 02/03/21)

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Testimony in Opposition to SB 839,
Legislation to Expand the Practice of Assisted Suicide in Hawaii

The ink is barely dry on the new Hawaii law which legalized the use of lethal drugs to assist a person's suicide, and now the proponents want to expand the law. The law was wrongly-decided for vulnerable patients and expansion will now endanger even more Hawaii citizens. Here are the flaws in SB 839:

- SB 839 allows Nurse Practitioners and Physician Assistants to prescribe the lethal drugs. Even physicians, as more highly-trained medical professionals, describe how difficult it is to determine how long a patient has to live and are more often wrong than right in making this prognosis. No medical professional should be allowed to prescribe lethal drugs, and adding less qualified, mid-level providers as additional medical professionals to prescribe them puts vulnerable patients at further risk of having their lives ended prematurely.

- Medicare clearly prohibits Nurse Practitioners from certifying the terminal prognosis of six-months to live for hospice eligibility. Since certifying a six-month prognosis is one of the essential functions of the attending provider under the Hawaii assisted suicide law, this expansion bill is inconsistent with other standards of care for end of life prognostication and will lead some vulnerable patients to throw away good months, years, or even decades of their lives because of a mistake in prognostication by under-qualified medical professionals.

- The findings set out in Section 1 do not address a need to expand counseling to include psychiatric mental health nurse practitioners. Further, the Department of Health 2019 "Our Care, Our Choice" Annual Report, in which the Department "shall list any implementing problems []," H.B. 2739, § 25(1), did not raise this as a problem and did not include the addition of such practitioners in its legislative recommendations. Since counseling can be provided through "telehealth," H.B. 2739, § 1, there is no apparent reason why counseling cannot be provided adequately to patients on the neighbor islands by those providers the Act already authorizes.

- Another purpose of the bill is to "Reduce the mandatory waiting period between oral requests from twenty days to fifteen days[.]" S.B. 323, Section 1(3). See S.B. 323, § 3(1); S.B. 323, § 4. Following a "long period of examination and debate ," the Hawaii Legislature in Section 1(3) of H.B. 2739 had expressed its belief that "any legislation for patient choice must include ... Two oral requests from the patient, separated by not less than twenty days" and recognized that "These rigorous safeguards will be the strongest of any state in the nation and will

protect patients and their loved ones from any potential abuse." The Legislature in adopting H.B. 2739 thus contemplated that any reduction in the protection it afforded would endanger vulnerable patients to abuse.

- Section 1 of S.B. 323 justifies its reduction of these protections by claiming that many patients in Hawaii die before the statutory waiting period ends for the lethal prescription. Though noting that some providers agree, the Annual Report itself makes no mention of patients who may have died before making the second oral request and does not call for the reduction of the waiting period from twenty to fifteen days in its legislative recommendations.

- Section 1 further claims that a "high percentage" of patients in States permitting physician-assisted suicide die before the statutory waiting period for the lethal prescription ends. Since the annual reports of such states provide data only on patients for whom lethal prescriptions have been written, there is no basis for this claim.

- Finally, Section 5(c) permits attending medical providers to waive the fifteen-day waiting period if they judge that the patient will die before the period ends. See § 1(4). Such decisions can rest on only a “reasonable medical judgement,” even though their consequences are swift and irreversible and even though the language does not require confirmation by a consulting provider, as the Department’s Annual Report recommends. Further, it is unclear, if a waiver is made, whether the written request, the patient’s attestation before taking the lethal medication, and any mental health counseling are still required.

It is a gross distortion to claim Assisted Suicide laws add to autonomy when no universal right to care. People with disabilities and people of color face a myriad of health challenges and now, amidst the Covid-19 pandemic, are experiencing greater disadvantages due to lack of access to healthcare. Due to low reimbursement rates, many Medicaid participants are left with very few options. Placing less qualified practicioners between these patients and a life and death decision will only serve to exacerbate an already dangerous and discriminatory public policy. For these reasons, I call on you to reject SB839.

Respectfully,

Matt Vallière
Executive Director
Patients Rights Action Fund

Written Testimony Presented Before the
Senate Committee on Judiciary

Hearing: February 25, 2021, 9:30 AM
Via Videoconference

By Hawaiʻi – American Nurses Association (Hawaiʻi-ANA)

SB839, SB1 - RELATING TO HEALTH

Chair Karl Rhoads, Vice Chair Jarrett Keohokalole, and members of the Senate Committee on Judiciary, thank you for this opportunity to provide testimony **in support of SB839, SD1.**

This bill seeks to explicitly recognize advanced practice registered nurses (APRNs) as attending providers and consulting providers capable of performing all necessary duties under the Our Care, Our Choice Act in accordance with their scope of practice and prescribing authority. This bill also seeks to reduce the mandatory waiting period between oral requests made by a terminally ill individual from twenty to fifteen days, and to allow an attending provider to waive the waiting period for terminally ill individuals not expected to survive the mandatory waiting period.

We are members of the American Nurses Association in Hawaiʻi. Over 17,000 Registered Nurses in Hawaiʻi care for patients every day, throughout the lifespan, from birth through dying and death. We have supported the passage of bills to enact this measure in the past, in our interest to provide choices and options to patients addressing end-of-life issues. We continue to support the Act as an option for both patients and providers, to consider in meeting the personal needs of the individual patient.

We believe the recommendations made by the State of Hawaiʻi Department of Health to the terms of this Act address the very real difficulties individuals in Hawaiʻi are experiencing in meeting the established criteria and safeguards to ensure a secure, compassionate, and patient-centered end-of-life process.

Hawaiʻi-ANA respectfully requests that SB839, SD1 pass out of this committee.
Thank you for your continued support for measures that address equitable access to healthcare throughout our community.

Contact information for Hawaiʻi – American Nurses Association

President: Katie Kemp, BAN, RN-BC president@hawaii-ana.org
Executive Director: Dr. Linda Beechinor, APRN-Rx, FNP-BC executivedirector@hawaii-ana.org

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SB-839-SD-1
Submitted on: 2/19/2021 4:33:14 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Fontana	Individual	Support	No

Comments:

It is very important that this bill passes to ensure that those individuals who are in need of this assistance can get it in a timely manner. Perhaps, in this issue above all others, time is of the essense! Please do not let our ternimnally ill people suffer any more than necessary.

SB-839-SD-1
Submitted on: 2/19/2021 5:24:24 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
tia pearson	Individual	Support	No

Comments:

Pass this important bill to make sure that ALL eligible dying patients can access the compassionate option of medical aid in dying under the Our Care, Our Choice Act.

SB-839-SD-1
Submitted on: 2/19/2021 5:26:53 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jane E Arnold	Individual	Support	No

Comments:

Please support SB839. Thank you.

SB-839-SD-1
Submitted on: 2/19/2021 5:41:25 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rick Ramirez	Individual	Support	No

Comments:

SB 839 will provide expanded care for our citizens in Hawaii. Hawaii is multi-provider deficient and the allowances of SB 839 will further expand care, resources, and information to needed patient and their families. With education and training behind them, APRN's can fully execute the nature of the provisions of Our Care, Our choice. These measure would also allow APRN's to practice fully in accordance with their licensure and certification. I fully support this bill and the senate should as well.

Rick Ramirez, DNP, ARPN

February 20, 2021

Honorable Chair Rhoads, Vice Chair Keohokalole, and Esteemed Senate Committee on Judiciary Members,

I have practiced and taught full-time palliative medicine in Hawaii for over 16 years and I am writing, as an individual, in **opposition to SB839**

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

- **The law as written is factually incorrect. Certification of a terminal prognosis is not within the scope of practice for Advanced Practice Registered Nurses (APRN's).** APRN's are an essential component of any high-quality palliative care team. Personally, I am fortunate to work on a daily basis with the most skilled palliative care APRN's in the state. However, Medicare specifically prohibits APRN's from certifying 6-month prognosis for hospice (although they may serve as attending). This certification of six-month prognosis is an essential role of the attending and consulting physicians under the OCOCA. Why would Hawaii consider it scope of practice for APRNs to certify terminal prognosis when the federal government does not? On what evidence is this based as being safe or appropriate care?
- **APRN's do not meet the definition of the attending provider under the Our Care, Our Choice Act even as written in SB839.** The Our Care, Our Choice Act, like all other legally accelerated death laws in the US, defines the attending provider as having "responsibility for the care of the patient and treatment of the patient's terminal disease." APRN's do not meet this definition in that they do not have responsibility for the treatment of cancer or the neurodegenerative, pulmonary or cardiac diseases that are the most common terminal illnesses affecting people that pursue legally accelerated death.
- **Waiving the waiting period for those not expected to survive the waiting period is clinically illogical.** A physician can only reliably predict that a patient will only survive days and not weeks once the patient has entered the actively dying phase. Patients at this stage nearly always lack the ability to perform the cognitive and physical functions required to self-determine their care under the OCOCA. Passing this provision would open the door to abuse by authorizing patients that are unable to self-determine and self-administer the lethal drugs or abuse by physicians succumbing to pressure to expedite the process. While legally accelerated death is nearly always about controlling life's end, the idea of waiving waiting periods to hasten dying for people who are believed at high risk of dying too soon hardly seems worth any reduction in safety that may come from expediting the process.

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

Respectfully,

Daniel Fischberg, MD, PhD, FAAHPM
Kailua, HI

Dear Members of these Senate Committee on Health

In opposition to SB 839 SD1

In the wake of a tripling of suicides during this COVID pandemic when suicide rates had been increasing in all age categories even before the pandemic, to talk about expansion of the original act is, to put it bluntly: “suicidal”.

Firstly, there already has ample evidence that the professional MOST qualified to assess for assessment and treatment of depression is the psychiatrist. It has been shown that the prevalence of reversible depression in those with advanced illnesses and/or at end of life is around 40%. Yet, only 4-6% of those seeking medical aid in dying per the state of Oregon statistics were referred to a psychiatrist. If the current medical providers are so dramatically underdiagnosing treatable depression, this will only worsen if advanced practice nurses are allowed to assess for mental health.

2ndly, within this climate of increased depression and anxiety, there is thus good reason for the current mandatory waiting period. This time of processing their decision and the support of good hospice care is absolutely valuable in subsequently making a final decision regarding their end of life wishes. This waiting period therefore should NOT be shortened.

Finally, waiving mandatory waiting period for those who would not survive the remaining 3 weeks of their life is an oxymoron. As a recently retired hospice physician, I know first-hand that someone in this situation usually has lost a significant amount of their cognitive ability and are often confused and emotionally fragile. Having the cognitive and emotional stability for clear decisionmaking in this context is extremely unlikely and waiving the mandatory waiting period only serves as a gateway for abuse by others who want to prematurely end the person’s life.

Craig Nakatsuka, MD

SB-839-SD-1
Submitted on: 2/19/2021 5:41:53 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Baron	Individual	Support	No

Comments:

In Strong Support.

SB-839-SD-1
Submitted on: 2/19/2021 5:45:57 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Allyn Bromley	Individual	Support	No

Comments:

I'm 92.5 yrs old and desperately want to have a gentle death when my time comes.

Please vote FOR *this bill.*

Respectfully, Allyn Bromley

SB-839-SD-1
Submitted on: 2/19/2021 6:00:54 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kathleen M. Johnson	Individual	Support	No

Comments:

In May 2019 my husband was the 2nd person in Hawaii to use the MAID prescription which was 6 months after his terminal cancer diagnosis and six months prognosis. His last few months, once the prescription was filled, were no longer anxiety filled. He knew he could choose when to end his life on his own terms which was a great relief, added dignity, ease of mind and control to his final days. Navigating the system and timings was a challenge and it must be more accessible to those not as fortunate as we were to have Kaiser Permanente's support and Dr. Miller as our advisor.I hope the process can be made smoother with more health professionals and pharmacys.

SB-839-SD-1
Submitted on: 2/19/2021 6:01:08 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
william metzger	Individual	Support	No

Comments:

trained nurses are able to administer care and aid to the dying

SB-839-SD-1
Submitted on: 2/19/2021 6:31:13 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch, Sr.	Individual	Support	No

Comments:

I strongly support SB839.

SB-839-SD-1
Submitted on: 2/19/2021 6:57:02 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carla Hess	Individual	Support	No

Comments:

Hawai’i is one of 24 states that give advanced practice registered nurses (APRNs) authority to
independently carry out all medical acts consistent with their education and training, including prescribing all forms of medication, including controlled substances. Allowing APRNs to participate as providers under the Our Care, Our Choice Act is consistent with their scope of practice and would help address the disparity in access to participating providers, particularly in rural areas and neighbor islands.

Two of the largest healthcare systems found that a significant number of eligible patients die in exactly the way they DON'T wish to during the mandatory minimum waiting period. SB839 will allow a qualified patient’s attending provider to waive the waiting period if, in their medical judgment, they are unlikely to survive that time period.

Hawai’i has the longest mandatory waiting period (20 days) between the first and second oral requests for medical aid in dying, of the 10 authorized U.S. jurisdictions. The additional waiting period required under the Our Care, Our Choice Act has proven to be a barrier for individuals seeking medical aid in dying rather than a safety feature. SB839 will reduce the waiting period
between oral requests to 15 days, the length of time used in all the other authorized states.

As an RN who worked at Hospice Maui for several years, this bill is very important to me. It is the humane thing to do.

SB-839-SD-1
Submitted on: 2/19/2021 7:25:48 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Vickie Kibler	Individual	Support	No

Comments:

Aloha JDC Committee!

It is imperative that you support and pass SB839 SD1 and any other measures related to this bill. Too many people suffer needlessly and this is the time to truly support their rights. MY RIGHTS!!!!

With warm aloha,

Victoria Kibler

SB-839-SD-1
Submitted on: 2/19/2021 8:08:05 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
ann blyde	Individual	Support	No

Comments:

as a patient whose Dr will not actively support the

bill as currently passed, I need assistance from

another source.

SB-839-SD-1
Submitted on: 2/20/2021 8:50:52 AM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
James Long	Individual	Support	No

Comments:

Aloha, please pass this piece of critical legislation, SB839 SD1, which will help those who suffer terminally, allowing them to pass compassionately and with some dignity. We must make the Our Care, Our Choice Act more accessible and the process more timely for those who qualify by reducing the wait times.

Mahalo,

James
Long
Naalehu, HI

SB-839-SD-1
Submitted on: 2/20/2021 9:51:27 AM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Bobbi Bryant	Individual	Support	No

Comments:

My name is Bobbi Bryant. I am an end-of-life doula. I have had the privilege of supporting four people that qualified for aid in dying medication through the Hawaii Our Care Our Choice Option. I have personally witnessed how having the medications lessened these people's anxiety and suffering.

I believe that Advanced Practice Registered Nurses should be Authorized in addition to physicians, to practice medical aid in dying in accordance with their scope of practice and prescribing authority. This will help to ease anxiety, pain, and suffering as it creates more ease of access to the medication.

Many people who are terminal and close to death might not have the 20 days that the current law requires to get through the process so they can die at peace. Reducing the mandatory waiting period between oral requests from twenty days to fifteen days is a humane action to take to allow these individuals a better chance at accessing the aid in dying medications and dying with peace and dignity.

Thank you for considering my testimony.

Bobbi Bryant

SB-839-SD-1
Submitted on: 2/20/2021 10:24:26 AM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Libby Tao Kelson-Fulcher	Individual	Support	No

Comments:

Aloha,

I strongly and respectfully urge you to pass this bill. It only makes good sense, practically and lovingly, to allow those for whom living their life is done and is only a torment now to their body, mind and spirit; to have an acceptably easy and caring passage to a pain-free and peaceful place.

Please support the passing of this bill SB 839 SDI removing unnecessary limitations in the law, allowing all eligible patients to access this compassionate option of medical aid in dying.

Mahalo, Rev Libby Kelson-Fulcher, D.D.

SB-839-SD-1
Submitted on: 2/20/2021 11:49:37 AM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jacob Bilmes	Individual	Support	No

Comments:

By the time a doctor can say with certainty that a patient will die within the next six months, the patient may have only weeks or even days to live. Therefore, it is imperative that the qualifying period for medical aid in dying be shortened as much as possible. Please support SB839.

Respectfully,

Jacob Bilmes

SB-839-SD-1
Submitted on: 2/20/2021 1:25:13 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Francis Nakamoto	Individual	Support	No

Comments:

Chair Karl Rhoads, Vice-Chair Jarrett Keohokalole and members of the Senate Committee on the Judiciary

I support SB839.

As you may already know, because of the existence of Hawai'I's Our Care Our Choice law, which allows dying Citizens of Hawaii the right to die with dignity at a time and place of their choosing, at least 135 Hawaii residents have sought to request prescriptions for medication to speed the inevitable end of their lives. With that power, they could choose to end unbearable pain and undignified loss of bodily functions and the time and place of their last breath with their loved ones.

Unfortunately, as Kaiser HI and Hawai'I Pacific Health data shows, 16% to 34% of terminally ill persons have been thwarted from receiving their medication, dying before the 20-day statutory wait period expired. Many are living in rural areas that lack medical providers able or willing to help. According to the State Department of Health, only one medical doctor on the Big Island and one on Maui are available for OCOC, only three consulting doctors on the Big Island, one each on Maui and Kauai. Other patients died before the medication could be obtained. The complications of Covid19 has exacerbated the difficulties of obtaining relief under OCOC.

For this reason, Advanced Practice Registered Nurses, who possess the qualifications and skill medical doctors have to assist these dying patients, should be authorized to substitute for MDs where the latter is unavailable or unwilling to serve their patients' needs.

For this same reason also, the arbitrary 20-day wait period should be reduced to 15-days, or waived by the attending physician or APRN if the patient is not expected to survive the current wait period. SB839 has been introduce to correct the unintended deficiency in the current law.

Whether or not you supported the enactment of the law, it is time to amend the law to make it work as intended and make reasonable modifications to eliminate the arbitrary restrictions that have denied too many Hawaii residents their last and most important exercise of civil and personal rights. Please support SB839.

SB-839-SD-1
Submitted on: 2/20/2021 3:50:30 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Evelyn Norris	Individual	Support	No

Comments:

Aloha All,

I am in support of this bill.

Thank you,

Evelyn Norris

SB-839-SD-1
Submitted on: 2/20/2021 4:30:08 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
AUBREY HAWK	Individual	Support	No

Comments:

I strongly support SB839 SD1. It is extremely difficult for dying people, especially those on neighbor islands or outside of the major healthcare systems, to access the law as it is currently written.

SB-839-SD-1
Submitted on: 2/20/2021 5:54:48 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ron Taylor	Individual	Support	No

Comments:

I am an older man who quite likely will need assistance to die because of severe health conditions that already affect me and may soon kill me. Please approve SB839 so that when it's the right time for me to die, I can get proper assisstance rather than be forced to seek drugs on the street to end my life. - sincerely, Ron Tay;or, Pahoa 96778

SB-839-SD-1
Submitted on: 2/20/2021 8:39:58 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake	Individual	Support	No

Comments:

Dear Chair Rhoads, Vice Chair Keohokalole and Commitee on Judiciary,

Please support SB839.

My elderly parents, who are in their 80s, live in Kona on the Big Island. There is a shortage of primary care physicians especially on the neighbor islands. If my parents ever need to use the Our Care, Our Choice Act, I want them to have the option of utilizing an advanced practice registered nurse to provide medical aid in dying. I don't want my parents to be forced to endure a 20 day mandatory waiting period, especially if they are suffering with excruciating physical and emotional pain. My parents have both told me that they would consider medical aid in dying if they were terminally ill.

Below is an op-ed that I sent to the West Hawaii Today newspaper.

https://www.westhawaiitoday.com/2021/01/29/opinion/letters-to-the-editor-january-29-2021/

On Feb. 15, 2021, the West Hawaii Today newspaper published a front page story about hospitals on the Big Island that resist the Our Care, Our Choice Act. The article emphasizes the shortage of physicians on the east side of the Big Island. Passage of SB839 SD1 will create greater access to the Our Care, Our Choice Act for terminally ill patients on the east side of the Big Island.

https://www.westhawaiitoday.com/2021/02/15/hawaii-news/hospitals-resist-our-care-our-choice-act/

I want this bill to pass to provide legal and humane end of life options for all people in Hawaii struggling with a terminal illness. Illness and death are a natural and unavoidable part of life. Improving the Our Care, Our Choice Act will ease unnecessary physical and psychological suffering for the dying patient and their loved ones.

People with religious beliefs that are not aligned with the Our Care, Our Choice Act do not need to use this law. Yet the Our Care, Our Choice Act empowers those who wish to have control over when and how they want to end their lives with dignity. The existance and improvement of the Our Care, Our Choice Act does not threaten the

rights of those who wish to live with a terminal illness until their lives are ended by natural causes. Medical aid in dying is ultimately a private and individual matter that need not be decided by opponents who object to medical aid in dying.

Thank you so much for your time and attention to this bill. I appreciate the opportunity to provide testimony in support for SB839.

Mahalo,

Caroline Kunitake

SB-839-SD-1
Submitted on: 2/21/2021 10:30:19 AM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Roxanne	Individual	Support	No

Comments:

Please pass this important bill to increase access to medical aid in dying under the Our Care, Our Choice Act.

SB-839-SD-1
Submitted on: 2/21/2021 11:44:04 AM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Bob Grossmann	Individual	Support	No

Comments:

All the proposed amendments will strengthen compassionate access and allow APRNs to work within their legal scope of practice.

If the Board of Nursing concurs, the word “psychiatric” may need to added before “clinical nurse specialist” for consistency in mental health speciality in the section defining counselors, after “psychiatric mental health nurse practitioners.

Thank you for your continued efforts to improve Act 2, 2018.

Bob Grossmann, PhD

SB-839-SD-1
Submitted on: 2/21/2021 4:50:17 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nora E. Wolf	Individual	Support	No

Comments:

Dear Senate Judiciary Committee

In support of the Our Care, Our Choice Act, please pass SB839 SD1 to ensure all of Hawai'i's eligible residents have access to medical-aid in dying should they choose this compassionate end-of-life option.

Sincerely,

Nora E. Wolf

SB-839-SD-1
Submitted on: 2/21/2021 10:04:17 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
David Gili	Individual	Support	No

Comments:

I support SB839.

SB-839-SD-1
Submitted on: 2/21/2021 10:05:50 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carol Iwamoto	Individual	Support	No

Comments:

Please pass SB839.

SB-839-SD-1
Submitted on: 2/22/2021 5:30:13 AM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Diane Ware	Individual	Support	No

Comments:

Aloha,

I am 72 and live on the Big Island where accessing MD's is difficult and lengthy. I am concerned if needed I could not access end of life care. I see my peers succumbing to painful cancers, the second leading cause of death, and feel we need this addition of caring nurse practitioners.

Sincerely,

Diane Ware Kapoha Place Volcano HI 96785

Mary M. Uyeda, APRN

To our Senators – Senate Judiciary Committee – February 22, 2021

I support SB 839 for fewer barriers to the small population - who might fit this very specific scenario at end of life - for more alternatives to access on the neighbor islands.

During my 30 years of bedside nursing in Intensive Care, I have personally witnessed a wide range of deaths ranging from peaceful to prolonged agony, often dependent on the physician and nurses in charge of their care. One incident needs mention, where a terminal cancer patient packed his own loaded gun, saying “to give myself the alternative of a way out of this pain” if doctors could not give him relief. Obviously, the follow-up police interrogation was an embarrassment to all of us.

It is known that physicians do not make time to listen to their patients and too often a Living Will is overlooked or outdated. While it does preserve the option of no treatment, it does not address a comfortable death. In short, it needs to be emphasized that “no treatment” does not translate to “no care”. Most people would rather die at home, surrounded by the people whom they care about.

Hawaii is far behind the Oregon law which has built-in safeguards that prevailed over the last 20+ years. Help us pass SB 839.

SB-839-SD-1
Submitted on: 2/22/2021 10:29:39 AM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Goodyear	Individual	Support	No

Comments:

Aloha Senators,

I am writing to express my strong support for SB839 and to ask you to support passage of this bill. I am a clinical psychologist who conducts mental health consultations for terminally ill patients who have requested medical aid in dying. Since the Our Care, Our Choice Act went into effect I have had the privilege of doing over 50 of these consultations, mostly for Kaiser patients.

Based on my experience thus far, I believe that the Act is working as intended for the most part. All of the patients that I have seen have been grateful and relieved to have this option available in case their suffering becomes unbearable at some point. I have also been impressed by how acceptant these patients have been of the fact that they have only a very limited amount of time remaining in their lives.

There are, however, some changes that should be made to the legislation to address certain problems that have arisen for some patients who have requested medical aid in dying and have not been able to take full advantage of the current law. SB839 directly addresses these problems.

One problem, particularly for patients on the neighbor islands and in rural areas of Oahu, is the shortage of physicians who are able to act as the attending or consulting provider. This mirrors the more general shortage of medical providers in these areas of the state. Allowing APRNs, who are well qualified to do so, to take on these roles would greatly help to alleviate this shortage.

The second problem is that some critically ill patients have been too ill to survive the 20 day waiting period. Two changes are in order to address this problem. The waiting period could safely be reduced to 15 days to bring the law in line with similar pieces of legislation in other jurisdictions. In addition, the attending provider should be allowed to waive the waiting period completely for patients who are not expected to survive the waiting period. This change has already been enacted in Oregon, and I understand it is being considered in other jurisdictions.

Mahalo for your support of these proposed changes in last year's legislative session and for your continuing attention to these important issues.

Brian Goodyear

Honolulu, HI 96816

SB-839-SD-1
Submitted on: 2/22/2021 12:55:58 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Malachy Grange	Individual	Support	No

Comments:

Dear Senators

The Our Care Our Choice Act which was passed and put into law two years ago was a promise to those who qualified for and wished to access Medical Aid in Dying. But some patients have been blocked from accessing their legal and ethical right to Medical Aid in Dying. These citizens met all the rigorous criteria required: they had 6 months or less to live, they were of sound mind, and were under no coercion. Their moral compasses were true and clear, they had the support of family and friends, and yet many died without being able to choose the manner, time, and place of their passing. Their autonomous choice in these matters was taken away by deficiencies in the law. The promise was not fulfilled.

SB 839 addresses these deficiencies. One issue is the dearth of medical practitioners able to participate in the process. There are just not enough MDs to fill the need, especially on the Neighbor Islands. Many have had to wait for appointments until it was too late. They have died before they could complete the process. Similarly, because of the rapidity of some of the disease processes, the mandatory waiting periods have stopped people from timely access to the medications needed for Medical Aid in Dying. The sad irony is that they passed away waiting.

By allowing qualified Advanced Nurse Practitioners to assess, prescribe and consult in these cases, the doors will open wider and give qualified patients the time to proceed. By giving medical providers the option of reducing waiting periods in appropriate patients, the compassionate intent of the law would be fulfilled.

SB-839-SD-1
Submitted on: 2/22/2021 1:14:05 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Katz	Individual	Support	No

Comments:

I support this Bill because these nurses are the people that dying persons have seen and been cared for by most often. From my own experience with my ill mother-in-law I know that it was the nurse who had provided the most continuing care and was most attuned to my mother-in-law's pain and desire to end her life. The sad fact is that there are not enough doctors to provide the continuing care that the APNs provide and waiting for a doctor needlessly extends the dying patients pain. This APN came to our mom's foster care home, and the doctor never did. To the doctor, our mom was a name and a number. What kind of compassion can you give to a name and number on a computer screen? P
I also support the reduction of the waiting period to fifteen days because even that modest reduction will prevent a painful death. The fact is that people are dying with pain during the current waiting period and even the proposed reduction is a humanitarian gift.

SB-839-SD-1

Submitted on: 2/22/2021 1:14:23 PM

Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Stacey Jimenez	Individual	Oppose	No

Comments:

I would like to thank you for this opportunity to offer comments regarding SB839. I am asking the Committee on Health to OPPOSE SB839, SD1. The people of Hawaii deserve only the best quality of healthcare. This bill would only decreases the quality of care provided in Hawaii by allowing advanced practice registered nurses to make medical decisions that should be left to doctors.

I have known people in my life that have received a grave diagnosis. They thought death was imminent but went on to live many happy years. Healthcare is the “practice” of medicine. The practice is not always exact in nature and errors happen. SB839, SD1 places this practice of making life and death medical decision into the hands of advanced practice registered nurses. Nurses do not have the same years of training and knowledge of accessing patients as physicians.

The risk of more errors, resulting in premature death of people, due to the inferior training and experience of advanced practice registered nurses far outweigh any perceived benefit to allowing the proposed changes made by SB839, SD1. Foreseeable mistakes made by less trained professionals could result in pre-mature death for some residents of Hawaii.

Please vote NO on SB839, SD1.

SB-839-SD-1
Submitted on: 2/22/2021 1:30:28 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Romala Radcliffe	Individual	Support	No

Comments:

It makes sense with the health professional shortage that Hawaii faces to authorize psychiatric mental health nurse practitioners, in addition to psychiatrists, psychologists, and clinical social workers, to provide counseling to a qualified patient.

Please reduce the mandatory waiting period between oral requests to fifteen days.

You must waive the mandatory waiting period for those terminally ill individuals who are not expected to survive the mandatory waiting period.

SB-839-SD-1
Submitted on: 2/22/2021 3:35:59 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lucien Wong	Individual	Support	No

Comments:

The less burdensome and more available this humane bill can be amended, the more it will help those who are facing the end of their lives hoping to avoid the excurciating physical and mental agony some will otherwise face.

Mahalo

SB-839-SD-1
Submitted on: 2/22/2021 3:44:49 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rick Tabor	Individual	Support	No

Comments:

To Whom It Concerns,

I'm writing testimony , as a concerned individual with five decades of mental health professional experience. Three of the six states I lived in passed a medical aid in dying law, while I was working as a counselor and clinical casemanager; Oregon, Washington and after retiring from mental health, we, Hawai'i passed Our Care, Our Choice.

Sadly, Hawai'i's medical-aid-in-dying was a year late for some of our family KÅ«puna who talked about a desire to exercise the option in lieu of the end of life experience they feared. Granted, this death with dignity decision is one of the most sensitive, soul searching, thought provoking decisions anyone can ever make. It's a decision most will never know how they'll feel, until, sadly, a time comes, where they may face the option, discovering an awareness never before experienced, finding themselves/ourself, in deep thought, as we make our end of life decision, hoping for the peace of mind, Our Care and Our Choice dignifies us.

End of life choice is an individual one that becomes a goal the terminally ill individual will focus on until accomplishing the required steps are accomplished freeing them of the intense burden, anxiouness and concerns of an unbearable death. The peace of mind, knowing there's a peaceful option is often times what's needed to be able to breathe free of worry, spending one's last breaths, peacefully with the company of loved ones.

Sadly, Our Care, Our Choice, in it's current framework, lacks the equity needed for much of Hawai'i. Too few Primary Care Physicians and the twenty day wait period on top of all the necessary steps, creates too long a process for those many of our terminally ill to accomplish. This is why I strongly support APRNs as Our Care, Our Choice assessors, prescribers, and no waiting period as recommended by other states, the CDC and SB839. To the questions of potential abuse, let the record reflect the data from all states, through all the years of 'death with dignity' laws reflecting no abuse. Not even one case. Matter of fact, many recipients of the medical aid in dying medications die peacefully of their illness, rather than admistering the medication. Dignity means choice, after all. The comfort of a dignified option is often times all a dying person needs to rest in peace. Thank you for your time & consideration on such an important matter.

Our Generations Magazine interviewed Compassion and Choice's Sammantha Trad on 01.31.2021. We had a remarkable discussion. I know time is presious, it's worth the 47 minute listen at https://generations808.com/radio-tv/

Thank you for your time & consideration on such an important matter.

SB-839-SD-1
Submitted on: 2/22/2021 6:09:25 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
stephanie marshall	Individual	Support	No

Comments:

Dear Chairman Rhoades, I am writing in full support of SB 839. I am an oncology nurse for over 40 years and have followed the law over the past 2 years . There is an absolute need for these changes to support the patients who wish to access this law. I am also a retired professor from university of hawaii at Manoa school of nursing and support APRNS to act as a provider for these patients. Their scope of practice and training makes them well qualified to act in this role. I fully this bill and humbly ask you to move it forward. Respectfully, Stephanie Marshall RN,MS , FAAN

SB-839-SD-1
Submitted on: 2/23/2021 8:03:48 AM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ashley Springer	Individual	Support	No

Comments:

I support the Our Care, Our Choice Act to provide all eligible dying patients the access to the compassionate option of medical aid in dying.

SB-839-SD-1
Submitted on: 2/23/2021 10:50:03 AM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Caryn Ireland	Individual	Support	No

Comments:

It is critical to include APRNs as providers for the Our Care, Our Choice Act and to shorten the waiting period in order to support patients at end-of-life. Our physician shortage across the State greatly impacts individuals who want to choose this option. Please vote "yes" on these important updates.

TESTIMONY IN SUPPORT OF SB839
Hawaii State Senate Health Committee
Thursday, February 25, 2021, 9:30a
Videoconference
Submitted by Lynn B. Wilson, PhD

February 23, 2021

To: Members of the Senate Health Committee
Jarrett Keohokalole, Chair
Rosalyn Baker, Vice Chair
Sharon Y. Moriwaki
Joy San Buenaventura
Kurt A. Favella

Re: Urging your strong support of SB839 for removing barriers to access Hawaii's Our Care, Our Choice Act

Greetings Senate Health Committee Chair, Vice Chair, and Members:

I again ask for your strong support in your second hearing of SB839 aimed at removing barriers to access in the act is very important.

Data demonstrates safe use. Over 60 prescriptions have been written in Hawaii since the law went into effect. Staying in line with nearly 40 years of combined national data, there has not been a single incident of coercion or abuse in Hawaii or in any other states that have authorized medical aid in dying.

My story. The amendments in SB839 are important to me personally. I was diagnosed in 2016 with an aggressive form of breast cancer. While my prognosis now looks good—it's been nearly five years since my diagnosis and treatment—I am convinced we all deserve to be able to access this law as an end of life option. We need to make sure these amendments are in place so that terminally ill patients will not suffer needlessly at their end of life because they are unable to receive the supportive care they need.

Support need to increase access to the law by doing the following:

1) Amend waiting period. The law is in place, yet there remains a lack of doctors who are participating. Many who try to access the medical aid in dying option cannot find doctors to support them, and many do not survive the 20-day waiting period. This has led to exacerbating stress for the dying person at a time when comfort is needed most. It increases distress for families at the very moment when they need to stay grounded and share their loving. Both Kaiser Permanente and Hawaii Pacific Health have set up streamlined processes to assist their patients in accessing medical aid in dying, but nearly a quarter of their eligible patients did not

survive the waiting period and died in exactly the way they did not want. Therefore, I appeal to you, our legislators, to amend the Our Care, Our Choice Act to *allow the 20-day waiting period to be waived* if the eligible patient will not survive the waiting period, just as they already do in Oregon.

2) Amend qualifications for prescriptive powers. The law can be especially difficult to access on our neighbor islands. That is why the Hawaii State Department of Health has recommended that qualified Advanced Practice Registered Nurses (APRNs) be able to fully support eligible patients in the option of medical aid in dying, including writing prescriptions for qualified patients. Moreover, it is extremely hard for terminally ill patients, if they are not part of Kaiser or Hawaii Pacific Health, to find doctors who are willing to write a prescription. APRNs already have prescriptive authority in our state, thanks to your leadership. *APRNs should have the ability to serve as approved medical personnel for this law*, especially because of the doctor shortage across our state. With this amendment, APRNs will become qualified to serve as either the attending or consulting for the law.

These amendments to SB839, recommended by our Department of Health, just make sense—contributing to the well being of families across the state who have loved ones at the end of life.

When Senator Roz Baker and Representative Gregg Takayama sponsored legislation reflecting these amendments in the 2020 session, the bill did pass out of the Senate and was heading to the House when, unfortunately, the pandemic brought everything to a halt.

It's time for Hawaii to approve the Hawaii State DOH improvements to the Our Care, Our Choice Act to increase access so that everyone who prefers this legal option has equal access to implement the choices they have for themselves at one of the most significant moments of their lives.

Aloha,

Lynn B. Wilson, PhD
Waipahu, Hawaii 96797

My name is Dr. Charlotte Charfen, and I am a board-certified emergency physician that practices emergency medicine on the Big Island in North Kohala and Kona. I am providing written testimony in **support** of SB839 which makes very necessary improvements to the Our Care, Our Choice Act.

Because of my ER work over 20 years across our nation, I have come to realize the severe lack of communication and discussion when it comes to end-of-life issues. I see how that often translates into fear and suffering for the patient, families and medical providers. This led me to create a nonprofit called Life & Death Wellness to educate and support about all life matters, especially the end-of-life.

In doing this work, I was approached by a terminal patient on my island to help him with MAID because his primary and oncology physicians would not even speak to him about the issue. His first words to me were that he felt abandoned, and he hoped I would at least listen and consider his case. He immediately signed up with hospice and began the process of MAID. He is a very autonomous and private individual but what I witnessed as we worked together was that he was letting in many palliative modalities to include end-of-life doulas, hospice, myself and MAID.

And guess what happened? His quality of life and his quantity expanded past his terminal prognosis by over one year. He sadly just died but did so lovingly surrounded by a team of volunteer doulas and caregivers in our rural community all brought together because of his initial struggle with getting access. He attributed finally having access to MAID as one of the things that allowed him to be open to other palliative help. This is an aspect of the law that I think sometimes gets overlooked. Not everyone will live longer, but my experience is they will live more fully with the time they have left by having access. This patient chose not to even use his medication.

I am in full support of amending the law so that more of our residents, especially on outer islands, can have access. To date, I am one of only one three physicians that has prescribed on the Big Island. That is multifactorial I am sure. But I do work with advance nurse practitioners that would be willing to help make this choice more accessible if not enough physicians are prepared. And right now, that appears to be the case at least on my island. I have now helped six patients get access. All of them found me because their own physicians would not or were not allowed to help them due to the hospital system they belonged. Some have gone so far as to be blatantly condescending and cruel when they were approached by the patients that trusted them.

And as a physician I believe it would be helpful and humane to limit the waiting period from 20 to 15 days and allow providers the flexibility of waiving the waiting period if our sound judgment determines the patient will most likely not survive but would qualify. One of my six patients died the very day I was legally able to write his prescription. My clinical judgement would have waived his case had I been given that chance under the law and saved his wife the pain and suffering she endured knowing his wishes were not met because of the current barriers our law affords.

I have heard some report that we have the safest MAID law in the country. I beg to differ. We have the most prohibitive. Barriers do not ensure safety, but they do ensure more pain and

suffering in patients and their families that are already struggling with the complexities that come with ones ending.

Thank you for accepting my testimony. I am always willing to speak to this matter if I can help in any way.

Mahalo,

Dr. Charlotte Charfen

SB-839-SD-1
Submitted on: 2/23/2021 7:00:06 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Judith A Mick	Individual	Support	No

Comments:

Many years ago when my mother was dying of cancer, I wish there had been a way for me to help her end her suffering. Now that there is a chance to eliminate suffering for terminally people , let's be supportive of that action. Mahalo for your consideratMahalo for your consideratain. Judith Mick, Kailua

SB-839-SD-1
Submitted on: 2/23/2021 9:44:10 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Alec Cornejo	Individual	Support	No

Comments:

Aloha Committee of Judiciary, Chair Karl Rhoads,

My name is Alec Cornejo. I am in support of SB 839 SD1, which is being heard on Thursday, February 25th 2021, at 9:30am

I am a student at the University of Hawai'i pursuing my masters degree in Social Work. I am looking to eventually work in a hospital setting in palliative care, where I can help to treat terminally ill and end of life patients as a medical health social worker.

I am in support of this bill because as stated in the bills description, it creates better access to medications for terminally ill patients to voluntarily request and receive prescription medication that allows the person to die in a peaceful, humane and dignified manner. I believe the reduction in days to 15 (reduction from 15 to 20 days) is ideal for this decision to be made by the client and/or individual making the decision.

There are a couple aspects of concern with this bill as I view this policy from both the client and health care provider perspective. First, as a client and health care provider, counseling will be able to be provided quicker within a smaller time frame to better gauge the perspective of the client and decisions being made by the client. For both the client and health care worker this can be beneficial because there will be a smaller wait time to reach the client and react to the clients needs and often rapidly changing needs at end of life stages.

Second, the time period by which the health care provider will allow an override of the wait period (15 or 20 days), if shortened, is a less amount of time in which the client can be assessed by the health care provider.

For example, if an individual were to be assessed to die with the 15 day period, this entire process could be overwritten allowing for the client to make the decision earlier. As a con for this aspect, the client will only be assessed within 15 days. I foresee a situation where a client may be assessed to die after the 15 day mark, and possibly within the 15-20 days after the initial request of the prescription to voluntarily receive prescription medication to die. In this example, the client will then lose out on certain rights and access to this overwriting process because of a change to TWO aspects of this bill rather than focusing on the way in which a matter of 5 days can matter in end of life stages.

Mahalo,

Alec Cornejo

February 23, 2021

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokaole, Vice Chair
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

RE: Support of SB 839

Chair Rhoads, Vice Chair Keohokaole, and Members of the Judiciary Committee:

I appreciate the opportunity to submit testimony in support of SB 839. I am a resident of Oahu and a Master of Social Work (MSW) Student. As a MSW student I understand and support removing barriers that make it difficult to exercise the provisions in the Our Care, Our Choice Act passed in 2018.

I fully support the four proposed amendments to the Our Care, Our Choice Act. Hawaii has an evident provider shortage that makes it difficult for residents to access care. It is especially challenging to access care in rural communities, particularly in neighbor islands. All Hawaii residents should have the choice to make and implement end of life decisions. Choice is only possible if access is equal. Authorizing advanced practice registered nurses to practice medical aid in dying and authorizing psychiatric mental health nurse practitioners and clinic nurse specialists to provide counseling will help expand access to more residents.

Terminally ill patients deserve the right to self-determination. Long mandatory waiting periods reduces people's ability to determine end of life decisions. Hawaii has the longest mandatory waiting period. Data from the last year has shown that qualified patients are dying without choice while waiting. Reducing the mandatory waiting period and providing an expedited pathway to those who are not expected to survive will strengthen the act and allow residents to use it as intended.

Thank you for your consideration. Please pass SB 839.

Respectfully,
Kimberly Puente

SB-839-SD-1
Submitted on: 2/24/2021 6:04:58 AM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark J Rollo	Individual	Oppose	No

Comments:

As a physician in Massachusetts I know that most physicians are not comfortable with killing their patients. In fact, assisted suicide is strongly opposed by the AMA and the ACP. Even for those not opposed, it is a reality that most physicians are not experienced with regard to killing their patients. Adding mid-level practitioners, who have a mere fraction of the training of physicians to this grisly practice will undoubtedly increase the complication rate of the assisted suicide process.

Mark J Rollo, MD, Ftichburg Massachusetts.

SB-839-SD-1
Submitted on: 2/24/2021 9:28:14 AM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Becky Gardner	Individual	Support	No

Comments:

I strongly support this bill.

I had served the function of primary care taker for my mother during her last 7 months in her passing from an aggressive uterine cancer; and assisted my father (also aging) who provided round-the-clock care for my grandmother who, after several months of hospice care, passed away at home. I therefore understand well the need for compassionate aid-in-dying; particularly the "counseling" that is needed for patients and their families.

Accordingly, I wish to offer an observation about the most recent amendment that added "clinical nurse specialist" to those authorized to provide such counseling.

According to the bill an ""Advanced practice registered nurse" means a registered nurse licensed to practice in the State who has met the qualifications of chapter 457 and who, because of advanced education and specialized clinical training, is authorized to assess, screen, diagnose, order, utilize, or perform medical, therapeutic, preventive, ***or*** *corrective measure, including prescribing medication."*

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

My reading of all this would allow a CNS, who might very well be an APRN, provide "counseling', even if they don't have the counseling specialization - since the APRN definition includes various specialities, but does not require a specialization in mental health, counseling, etc. - by function of the term **"or"**. It may be necessary for the bill to explicitly require the CNSs (who are supposed to be APRNs) to actually have the counseling training. I believe this was the intent of the prior committee, and may qualify as a technical amendment.

In this vein, I think it would be MORE appropriate to add "marriage and family therapists" to those professionals qualified to provide this counseling - as they may be in the BEST position to navigate all the family dynamics that are at play during the death of a loved one. Accordingly, I respectfully request that MFTs be added to the language regarding "counseling", in addition to a clarifcation that *all* the professionals have the requisite training in mental health.

Thank you for the opportunity to provide this testimony on an important matter - that will only become more relevant as our baby boomers age.

-Becky Gardner

SUPPORT TESTIMONY

LATE

February 24, 2021

SB839 SD1 RELATING TO HEALTH.
Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Hearing: Thursday, February 25, 2021 at 9:30 a.m.
Via Videoconference

Aloha a welina mai nei e nā kau kānāwai:

I strongly **SUPPORT SB839 SD1** which will authorize advanced practice registered nurses, in addition to physicians, to practice medical aid in dying in accordance with their scope of practice and prescribing authority. SB839 authorizes psychiatric mental health nurse practitioners, in addition to psychiatrists, psychologists, and clinical social workers, to provide counseling to a qualified patient. This bill also reduces the mandatory waiting period between oral requests from twenty days to fifteen days. Further, it waives the mandatory waiting period for those terminally ill individuals not expected to survive the mandatory waiting period.

Hawai'i is one of 22 states that give APRNs authority to independently carry out all medical acts consistent with their education and training, including prescribing all forms of medication and diagnosing terminal illness. Hawai'i is dealing with an ongoing shortage of physicians, making it very difficult to find the required two physicians to qualify for medical aid in dying, especially on neighbor islands. APRNs are already helping to fill the gaps across the board in medicine on Neighbor Islands and should be able to help patients at end of life as well. I believe that terminally ill individuals have a right to their improved care, expanded options and power to chart their end-of-life journey.

I urge the committee to **PASS SB839 SD1**.

Respectfully, me ka `oia`i`o.
Dr. Leanne K. Fox
2nd Congressional District ● Senate District 18 ● House District 39

SB839 SD1

LATE

Dear Members of the Senate Judiciary Committee:

I am writing in opposition to SB 839 (SD 1), to weaken and rescind safeguards against abuse in Hawaii's "Our Care, Our Choice" (assisted suicide) law. I have studied proposals of this kind for decades, and currently serve as a Fellow with the University of Notre Dame's de Nicola Center for Ethics and Culture and an Associate Scholar with the Charlotte Lozier Institute. I live in Washington state where a similar bill is pending.

In 2018 the Hawaii legislature said it was approving that proposal because its "rigorous safeguards" were "the strongest of any state in the nation and will protect patients and their loved ones from any potential abuse." I submitted a statement at that time showing that in several respects this claim was false.

Now, despite having a state law especially *open* to abuse, some legislators -- like their counterparts in my home state – wish to redefine the "safeguards" as "barriers to access" which must be rescinded. In doing so they are falling in line with a nationwide campaign by the assisted suicide advocacy group "Compassion & Choices" (C&C), which has shown itself willing to advance "limited" assisted suicide proposals at first with every intention of expanding them later.

In Washington, C&C testified on January 18 that the great majority of other states were already expanding their assisted suicide laws, claiming that Washington needs to "catch up." Perhaps Hawaii legislators are being told that they need to "catch up" with Washington, though it has not passed any expansion bill. This is a ploy known as the "prisoners' dilemma": Isolate two suspects from each other and tell each one that the other has implicated him or her and made a deal with prosecutors, to see who cracks first. I hope legislators will not be fooled.

False and baseless statements in the bill begin with the Findings (Section 1).

The bill claims that "a high percentage of terminally ill individuals die while waiting to complete the regulatory requirements to qualify for medication under the respective state laws." There is no basis in state reports for this claim, as they do not record people who do *not* obtain a lethal prescription – and assisted suicide advocacy groups are hardly a reliable source.

In Washington in 2018 (the most recent reported year), 267 people obtained the lethal drugs, and 251 died in the same year *from any cause*, with at least 203 known to have done so from ingesting the drugs; 12% of patients dying that year had lived for *25 weeks or more after* their request for the drugs, living as long as

115 weeks (over two years) after obtaining them. In 2017 the time from prescription to death was as long as 81 weeks, and in 2016 as long as 112 weeks. Similarly, of 188 patients in Oregon who died from the prescribed drugs in 2019, eighteen had been diagnosed as having "less than six months to live" and given the drugs *in previous years*.

Clearly a significant number of patients are living *longer* than the predicted six months. We do not know *how* much longer, because these patients do not show up in the records until after they die. A patient who received the drugs in, say, 2010, but did not ingest them and lives for 20 years, will not show up in the records as surviving this long until 2030.

With regard to the changes proposed by this bill, the laws passed by other states are as follows:

Only eight states plus the District of Columbia, not ten, have put such laws into effect, beginning with Oregon in 1997. (Montana has a court decision that some construe as making an exception to the state law *against* assisted suicide, but that interpretation is disputed and the court has set no regulatory standards.) In the eight jurisdictions (7 states plus D.C.) other than Hawaii:

- *All* have a requirement of two *physicians* to make the prognosis and prescribe the drugs;

- *Four* require that the psychological assessment of the patient always be done by a psychiatrist or psychologist. One, Maine, allows for counseling by a state-licensed professional counselor, but still requires that a psychiatrist or psychologist determine the patient's competency. Only two allow the assessment to be done by a licensed clinical social worker. No law says this may be done by a nurse or nurse practitioner.

- *Seven* have a waiting period of 15 days and make no exceptions. Only Oregon allows this to be waived, when a physician (not a nurse) thinks the patient may die before the end of that period.

Finally I would like to comment further on the bill's waiving of the waiting period – a period originally seen as essential in helping to prevent abuse by allowing the patient time to change his or her mind.

1. The claim now is that, due to limited access to health care, patients on some islands find it difficult to fulfill the current regulatory requirements for obtaining

the lethal drugs. But the 2018 law stated that these patients "should have a full complement of support services available," including palliative care, hospice care, and aggressive medical care, *not only* the opportunity to "avoid an unnecessarily prolonged life of pain and suffering." Doesn't waiving the waiting period also waive patients' meaningful opportunity to access these *alternative* services -- increasing the likelihood that they will resort to the lethal prescription due to limited access to genuine compassionate medical care? And if some patients lack access to a trained psychologist or psychiatrist, doesn't that equally mean that their access to expert diagnosis and treatment for depression or other sources of impaired judgment is lacking? It is always easier and quicker to hand over a lethal prescription than to attend to a patient's real needs.

2. If the patient will have *no* waiting period when expected to die in two weeks or less, how does that even serve the state's supposed interest in preventing an "unnecessarily *prolonged* life" of suffering? The patient is expected to have a very short life indeed – and this will become a self-fulfilling prophecy if that expectation, whether correct or mistaken, is the pretext for immediately providing lethal drugs.

3. It is precisely in those critical cases when health care personnel think a patient may die very soon that immediate decisions must be made, by those personnel, as well as by patients and families, as to how much effort is made to save that life. A patient's decision at such a panicked time can hardly be seen as carefully considered or fully informed. And even if the patient has not yet decided to request the lethal drugs, health care providers' decisions can only be biased by the realization that this patient is among those for whom such an option is legally defined as legitimate medical care. In other words, this change in law may well undermine many patients' needed access to *life* in its enthusiasm for ensuring a few patients' immediate "access" to a desired death.

For these reasons I hope the committee will reject SB 839.

Richard Doerflinger
Associate Scholar, Charlotte Lozier Institute
De Nicola Center for Ethics and Culture, University of Notre Dame
La Conner, WA
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240-893-1434

LATE

SB-839-SD-1
Submitted on: 2/24/2021 11:26:44 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara J. Service	Individual	Support	No

Comments:

Please support SB 39 to ensure that all eliegible persons are able to make decisions about end-of-life issues.

Barbara J. Service MSW (ret.)

Senior Advocate

SB-839-SD-1
Submitted on: 2/24/2021 11:41:23 PM
Testimony for JDC on 2/25/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Pcola_Davis	Individual	Oppose	No

Comments:

SB839 Testimony
I STRONGLY OPPOSE THIS BILL AND MY REASONS FOLLOW.

Determining whether an ill patient is going to die within 15 days, and waiving those 15 days IS EUTHANASIA, MURDER, AND TO SEE IT IN WRITING IS APPALLING.

IN ADDITION;
This bill expands assisted suicide in Hawaii to include Advanced Practice Registered Nurses (APRNs) and Physician Assistants (PAs).
Expanding Prescription Power for Lethal Drugs to Physician Assistants (PA's) and Advanced Practice Registered Nurses (APRN's) is dangerously wrong.
Physicians are notoriously inaccurate in predicting how long a patient has to live, finding that a significant number live many years beyond the supposed six-month window for eligibility for assisted suicide drugs. The natural tendency of physicians who favor assisted suicide is to paint a grim prognosis for the patients, making them feel obligated to choose lethal drugs or instilling a mindset of “there aren’t any more options.”
The problem is made worse by placing life and death medical decision-making into the hands of PA's and APRN's who have much less training and knowledge in assessing patients than physicians. This may well result in the untimely death of patients who would have years, or even decades, of life ahead of them.
The proposed expansion of assisted suicide law in Hawaii doesn’t even call for training PA's or APRN's, let alone doctors, to assess patients for capacity, depression and other factors before giving them power to make irreversible decisions to end a patient’s life. It
is an egregious violation of patient safety to allow PA 's or APRN's to make this decision.
The Waiting Period:
State laws have waiting periods for much less serious actions than suicide prescriptions such as purchase of goods and services. Patients who are depressed or in need of medical treatment frequently change their minds about what they want. Medications to treat depression take several weeks to take effect, and sometimes several medications need to be tried to find the right one for the patient. Eliminating a waiting period does not allow for effective treatment of depression.

A waiting period of 20 days not 15 days is the MINIMUM that a state should require before a patient is given suicide drugs.

Continuing;

1. Giving an Advanced Practice Registered Nurse (APRN) privileges only afforded to physicians. Increasing the Scope of Practice for APRNs is not a solution. Examples of this are in the bill,
• assessment, No
• screening, No
• diagnosing, No
• ordering, NO
• utilizing, NO
• or to perform medical, therapeutic, preventive, or corrective measure, NO
• including prescribing medications. ABSOLUTELY NO

2. DO NOT amend the definition of “attending provider.” Amending the definition of "attending provider" to is a slap in the face of providers who spent many hours in medical school and investing large amounts of money to obtain their Medical Doctor (M.D.) designation.

3. The care and treatment of a patient who is presumed to have a terminal illness must not reside with an APRN.

4. DO NOT amend the definition of “consulting provider” to add “or an advanced practice registered nurse licensed pursuant to chapter 457, who is qualified by specialty or experience to diagnose and prescribe medication."

5. DO NOT amend the definition of “counseling” to add: or psychiatric mental health nurse practitioner leave this determination ONLY to a psychiatrist licensed under chapter 453, psychologist licensed under chapter 465, or clinical social worker licensed pursuant to chapter 467E that the patient is capable, and that the patient does not appear to be suffering from undertreatment or nontreatment of depression or other conditions which may interfere with the patient's ability to make an informed decision pursuant to this chapter."

6. Oral and written requests for medication; initiated.
This paragraph doesn’t include an APRN (yet an APRN is included in other portions of the bill, to determine whether an adult who is capable, is a resident of the State, and has been determined by "Attending provider" [means a physician licensed pursuant to chapter 453 and “Consulting Provider” means a physician licensed pursuant to chapter 453] to be suffering from a terminal disease, and who has voluntarily expressed the adult's wish to die, may, pursuant to section 327L-9, submit:
(1) Two oral requests, a minimum of [twenty] fifteen days apart; and
(2) One written request,
for a prescription that may be self-administered for the purpose of ending the adult's life in accordance with this chapter. "Attending provider" [means a physician

licensed pursuant to chapter 453 and “Consulting Provider” means a physician licensed pursuant
to chapter 453]. THE ATTENDING PROVIDER SHALL DIRECTLY, AND NOT THROUGH A DESIGNEE, RECEIVE ALL THREE REQUESTS REQUIRED PURSUANT TO THIS SECTION." NOT AN APRN.

7. DO NOT REDUCE THE NUMBER OF DAYS FROM 20 DAYS TO 15 DAYS. Nothing in the bill offers any data that indicates reducing the number of days will make any difference.

8. DO NOT REDUCE THE NUMBER OF DAYS FROM 20 DAYS TO 15 DAYS for Waiting Periods. There is no evidence supporting the reduction of days to make any difference.

9. If the terminally ill individual's "Attending provider" [means a physician licensed pursuant to chapter 453 and “Consulting Provider” means a physician licensed pursuant to chapter 453], attests that the individual will, within a reasonable medical judgment, die within fifteen days after making the initial oral request, the fifteen day waiting period shall be waived and the terminally ill individual may reiterate the oral request to the attending provider at any time after making the initial oral request."