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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. The legislature finds that in 2018, the State  
2 passed the Our Care, Our Choice Act to ensure that all  
3 terminally ill individuals have access to the full-range of end-  
4 of-life care options. The Our Care, Our Choice Act allows  
5 mentally capable, terminally ill individuals with six months or  
6 less to live to voluntarily request and receive prescription  
7 medication that allows the person to die in a peaceful, humane,  
8 and dignified manner.

9           The legislature further finds that Hawaii's unique  
10 geography and the State's shortage of physicians create barriers  
11 to access for qualified terminally ill individuals. Finding a  
12 physician may be burdensome, especially for individuals on the  
13 neighbor islands. Hawaii gives advanced practice registered  
14 nurses full scope of practice licensure; however, they do not  
15 have authority to administer medical-aid-in-dying, thereby  
16 further limiting access to care for many individuals.  
17 Furthermore, evidence from other states that authorize medical-



1 aid-in-dying demonstrates that even with full access to a  
2 supportive health care facility and providers, a high percentage  
3 of terminally ill individuals die while waiting to complete the  
4 regulatory requirements to qualify for medication under the  
5 respective state laws. Hawaii has the longest mandatory waiting  
6 period among all ten medical-aid-in-dying authorized states and  
7 the District of Columbia. Many patients are not surviving the  
8 mandatory twenty days.

9 The purpose of this Act is to amend the Our Care, Our  
10 Choice Act to:

- 11 (1) Authorize advanced practice registered nurses, in  
12 addition to physicians, to practice medical-aid-in-  
13 dying in accordance with their scope of practice and  
14 prescribing authority;
- 15 (2) Authorize licensed psychiatric mental health nurse  
16 practitioners, clinical nurse specialists, and  
17 marriage and family therapists, in addition to  
18 psychiatrists, psychologists, and clinical social  
19 workers, to provide counseling to a qualified patient;
- 20 (3) Strengthen the nondisclosure protections of the Our  
21 Care, Our Choice Act;



1 (4) Reduce the mandatory waiting period between oral  
2 requests from twenty days to fifteen days; and

3 (5) Provide an expedited pathway for those terminally ill  
4 individuals not expected to survive the mandatory  
5 waiting period.

6 SECTION 2. Section 327L-1, Hawaii Revised Statutes, is  
7 amended as follows:

8 1. By adding a new definition to be appropriately inserted  
9 and to read:

10 "Advanced practice registered nurse" means a registered  
11 nurse licensed to practice in the State who has met the  
12 qualifications of chapter 457 and who, because of advanced  
13 education and specialized clinical training, is authorized to  
14 assess, screen, diagnose, order, utilize, or perform medical,  
15 therapeutic, preventive, or corrective measures, including  
16 prescribing medication."

17 2. By amending the definition of "attending provider" to  
18 read:

19 "Attending provider" means a physician licensed pursuant  
20 to chapter 453 or an advanced practice registered nurse licensed



1 pursuant to chapter 457 who has responsibility for the care of  
2 the patient and treatment of the patient's terminal disease."

3 3. By amending the definitions of "consulting provider"  
4 and "counseling" to read:

5 "Consulting provider" means a physician licensed pursuant  
6 to chapter 453 who is qualified by specialty or experience to  
7 make a professional diagnosis and prognosis regarding the  
8 patient's disease[-], or an advanced practice registered nurse  
9 licensed pursuant to chapter 457, who is qualified by specialty  
10 or experience to diagnose and prescribe medication.

11 "Counseling" means one or more consultations, which may be  
12 provided through telehealth, as necessary between a psychiatrist  
13 licensed under chapter 453, psychologist licensed under chapter  
14 465, [œ] clinical social worker licensed pursuant to chapter  
15 467E, psychiatric mental health nurse practitioner licensed  
16 pursuant to chapter 457, clinical nurse specialist licensed  
17 pursuant to chapter 457, or marriage and family therapist  
18 licensed pursuant to chapter 451J, and a patient for the purpose  
19 of determining that the patient is capable, and that the patient  
20 does not appear to be suffering from undertreatment or  
21 nontreatment of depression or other conditions [~~which~~] that may



1 interfere with the patient's ability to make an informed  
2 decision pursuant to this chapter."

3 SECTION 3. Section 327L-2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 " ~~[§]~~327L-2 ~~[§]~~ Oral and written requests for medication;  
6 initiated. An adult who is capable, is a resident of the State,  
7 and has been determined by an attending provider and consulting  
8 provider to be suffering from a terminal disease, and who has  
9 voluntarily expressed the adult's wish to die, may, pursuant to  
10 section 327L-9, submit:

11 (1) Two oral requests, a minimum of ~~[twenty]~~ fifteen days  
12 apart; and

13 (2) One written request,  
14 for a prescription that may be self-administered for the purpose  
15 of ending the adult's life in accordance with this chapter. The  
16 attending provider shall directly, and not through a designee,  
17 receive all three requests required pursuant to this section."

18 SECTION 4. Section 327L-9, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 " ~~[§]~~327L-9 ~~[§]~~ Written and oral requests. To receive a  
21 prescription for medication that a qualified patient may self-



1 administer to end the qualified patient's life pursuant to this  
2 chapter, a qualified patient shall have made an oral request and  
3 a written request, and reiterate the oral request to the  
4 qualified patient's attending provider not less than [~~twenty~~  
5 fifteen days after making the initial oral request. At the time  
6 the qualified patient makes the second oral request, the  
7 attending provider shall offer the qualified patient an  
8 opportunity to rescind the request."

9 SECTION 5. Section 327L-11, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "~~{}~~§327L-11~~{}~~ **Waiting periods.** (a) Not less than  
12 [~~twenty~~ fifteen days shall elapse between the qualified  
13 patient's initial oral request and the taking of steps to make  
14 available a prescription pursuant to section 327L-4(a)(12).

15 (b) Not less than forty-eight hours shall elapse between  
16 the qualified patient's written request and the taking of steps  
17 to make available a prescription pursuant to section 327L-  
18 4(a)(12).

19 (c) If the terminally ill individual's attending provider  
20 attests that the individual will, within a reasonable medical  
21 judgment, die within fifteen days after making the initial oral



1 request, the fifteen day waiting period shall be waived and the  
2 terminally ill individual may reiterate the oral request to the  
3 attending provider at any time after making the initial oral  
4 request."

5 SECTION 6. Section 327L-14, Hawaii Revised Statutes, is  
6 amended by amending subsection (c) to read as follows:

7 "(c) The department shall annually collect and review all  
8 information submitted pursuant to this chapter. The information  
9 collected shall be confidential and shall be collected in such a  
10 manner that protects the privacy of all qualified patients, the  
11 qualified patients' family, and any attending provider,  
12 consulting provider, or counselor involved with a qualified  
13 patient pursuant to this chapter. Information collected  
14 pursuant to this [~~section~~] chapter by the department or retained  
15 as the result of incidental or routine communication with  
16 providers and patients shall not be disclosed, discoverable, or  
17 compelled to be produced in any civil, criminal, administrative,  
18 or other proceeding."

19 SECTION 7. Section 327L-19, Hawaii Revised Statutes, is  
20 amended by amending subsection (e) to read as follows:

21 "(e) For the purposes of this section:



1 "Notify" means to deliver a separate statement in writing  
2 to a health care provider specifically informing the health care  
3 provider prior to the health care provider's participation in  
4 actions covered by this chapter of the health care facility's  
5 policy regarding participation in actions covered by this  
6 chapter.

7 "Participate in actions covered by this chapter" means to  
8 perform the duties of an attending provider pursuant to section  
9 327L-4, the consulting provider function pursuant to section  
10 327L-5, or the counseling referral function or counseling  
11 pursuant to section 327L-6. The term does not include:

- 12 (1) Making an initial determination that a patient has a  
13 terminal disease and informing the patient of the  
14 medical prognosis;
- 15 (2) Providing information about this chapter to a patient  
16 upon the request of the patient;
- 17 (3) Providing a patient, upon the request of the patient,  
18 with a referral to another ~~physician,~~ provider; or
- 19 (4) Entering into a contract with a patient as the  
20 patient's attending provider, consulting provider, or  
21 counselor to act outside of the course and scope of



1           the health care provider's capacity as an employee or  
2           independent contractor of a health care facility."

3           SECTION 8. This Act does not affect rights and duties that  
4           matured, penalties that were incurred, and proceedings that were  
5           begun before its effective date.

6           SECTION 9. If any provision of this Act, or the  
7           application thereof to any person or circumstance, is held  
8           invalid, the invalidity does not affect other provisions or  
9           applications of the Act that can be given effect without the  
10          invalid provision or application, and to this end the provisions  
11          of this Act are severable.

12          SECTION 10. Statutory material to be repealed is bracketed  
13          and stricken. New statutory material is underscored.

14          SECTION 11. This Act shall take effect on January 1, 2050.



**Report Title:**

Our Care, Our Choice Act; Advanced Practice Registered Nurses;  
Mandatory Waiting Period

**Description:**

Authorizes advanced practice registered nurses, in addition to physicians, to practice medical-aid-in-dying in accordance with their scope of practice and prescribing authority. Authorizes licensed psychiatric mental health nurse practitioners, clinical nurse specialists, and marriage and family therapists, in addition to psychiatrists, psychologists, and clinical social workers, to provide counseling to a qualified patient. Strengthens nondisclosure protections. Reduces the mandatory waiting period between oral requests from twenty days to fifteen days. Waives the mandatory waiting period for those terminally ill individuals not expected to survive the mandatory waiting period. Effective 1/1/2050. (SD2)

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

