

STAND. COM. REP. NO. 3855

Honolulu, Hawaii

APR - 8 2022

RE: H.B. No. 1823
H.D. 2
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committees on Commerce and Consumer Protection and
Judiciary, to which was referred H.B. No. 1823, H.D. 2, S.D. 1,
entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize advanced practice registered nurses and
physician assistants to practice medical aid in dying or
provide counseling to a qualified patient;
- (2) Require a prescribing provider to conduct an initial
visit in-person;
- (3) Amend the mandatory waiting period between oral requests
and the provision of a prescription; and
- (4) Prohibit the disclosure, discovery, or compelled
production of information collected or retained pursuant
to incidental or routine communication between the
Department of Health and qualified patients or
providers.



Your Committees received testimony in support of this measure from the Stonewall Caucus of the Democratic Party of Hawai'i, Compassion & Choices, Hawai'i Pacific Health, Aloha Care, Hawai'i Society of Clinical Oncology, Hawai'i Association of Professional Nurses, Hawaiian Islands Association for Marriage and Family Therapy, National Association of Social Workers - Hawai'i, and twenty-nine individuals. Your Committees received testimony in opposition to this measure from St. Michael the Archangel Church, Hawai'i Family Forum, and five individuals. Your Committees received comments on this measure from the Department of Health, Hawai'i Medial Board, Board of Nursing, Hawai'i State Center for Nursing, Hawai'i Association for Justice, Hawai'i Medical Association, Hawai'i Association of Nurse Anesthetists, Hawai'i Psychiatric Medical Association, and four individuals.

Your Committees find that the Our Care, Our Choice Act was implemented to provide peace of mind to terminally ill patients in the State. However, a subsequent report to the Legislature found that, while compassionately implemented, some of the well-intentioned regulatory requirements outlined in the Act have created unintended barriers and unnecessary burdens. Coupled with the State's ongoing physician shortage, these barriers have made it difficult for terminally ill patients seeking access to medical aid in dying. This measure will allow more providers to voluntarily participate in providing assistance to medical aid in dying patients, especially to those patients in rural areas.

Your Committees further note the concerns raised in testimony that this measure, as currently drafted, requires attending providers to make an in-person, initial determination of eligibility for medical aid in dying. This amendment would place an additional burden on patients, particularly those in rural areas, to secure an in-person visit to fulfill the requirements of an initial request, even if the provider and patient have a long-standing relationship. Existing state law already requires that providers have an in-person consultation with a patient prior to prescribing controlled substances. Accordingly, amendments to this measure are necessary to address this concern.

Your Committees have amended this measure by:

- (1) Clarifying that the attending provider shall make the initial determination of whether a patient has a



terminal disease, is capable of medical decision-making, and has made the request for the prescription voluntarily, provided that this initial determination may be made in-person or via telehealth;

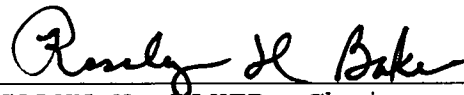
- (2) Amending section 1 to reflect its amended purpose; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Commerce and Consumer Protection and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1823, H.D. 2, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 1823, H.D. 2, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committees on Commerce and
Consumer Protection and
Judiciary,



KARL RHOADS, Chair




ROSALYN H. BAKER, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

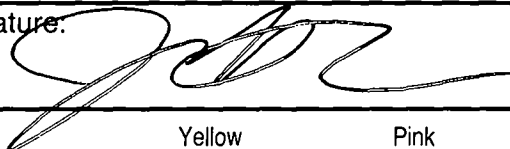
Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 1823, HD2, SD1	HTH, CPN 1/DC	04-01-2022		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
		<input type="checkbox"/> Recommit 2313		
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
CHANG, Stanley (VC)	✓			
DECOITE, Lynn	✓			
NISHIHARA, Clarence K.	✓			
RIVIERE, Gil			✓	
SAN BUENAVENTURA, Joy A.	✓			
FEVELLA, Kurt				✓
TOTAL	5		1	1
Recommendation:				
	<input checked="" type="checkbox"/> Adopted		<input type="checkbox"/> Not Adopted	
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes

The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

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HB 1823, HD2, SD1	HTH, CPN/JDC	04-01-22		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	/			
KEOHOKALOLE, Jarrett (VC)	/			
ACASIO, Laura	/			
GABBARD, Mike			/	
KIM, Donna Mercado		/		
LEE, Chris	/			
FEVELLA, Kurt				/
TOTAL	4	1	1	1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

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