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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 and an expansive scope  
15 of practice to physician assistants; however, they do not have  
16 authority to administer medical aid in dying, thereby further  
17 limiting access to care for many individuals. Furthermore,



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

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

- 12 (1) Authorize advanced practice registered nurses and  
13 physician assistants, in addition to physicians, to  
14 practice medical aid in dying in accordance with their  
15 scope of practice and prescribing authority;
- 16 (2) Authorize advanced practice registered nurses with a  
17 psychiatric or clinic nurse specialization and  
18 physician assistants, in addition to psychiatrists,  
19 psychologists, and clinical social workers, to provide  
20 counseling to a qualified patient;



- 1           (3) Reduce the mandatory waiting period between oral
- 2           requests from twenty days to fifteen days;
- 3           (4) Provide an expedited pathway for terminally ill
- 4           qualified patients who are not expected to survive the
- 5           mandatory waiting period; and
- 6           (5) Prohibit the disclosure, discovery, or compelled
- 7           production of information collected or retained
- 8           pursuant to incidental or routine communication
- 9           between the department of health and qualified
- 10          patients or providers.

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

13           1. By adding two new definitions to be appropriately  
14 inserted and to read:

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

1       "Physician assistant" means a person licensed to practice  
2 medicine under the supervision of a physician or osteopathic  
3 physician, as required by section 453-5.3."

4       2. By amending the definition of "attending provider" to  
5 read:

6       ""Attending provider" means a physician licensed pursuant  
7 to chapter 453, an advanced practice registered nurse licensed  
8 pursuant to chapter 457, or a physician assistant licensed  
9 pursuant to section 453-5.3 who has responsibility for the care  
10 of the patient and treatment of the patient's terminal disease."

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

13       ""Consulting provider" means a physician licensed pursuant  
14 to chapter 453 who is qualified by specialty or experience to  
15 make a professional diagnosis and prognosis regarding the  
16 patient's disease[-], an advanced practice registered nurse  
17 licensed pursuant to chapter 457 who is qualified by specialty  
18 or experience to diagnose and prescribe medication, or a  
19 physician assistant licensed pursuant to section 453-5.3.

20       "Counseling" means one or more consultations, which may be  
21 provided through telehealth, as necessary between a psychiatrist



1 licensed under chapter 453, psychologist licensed under chapter  
2 465, [~~or~~] clinical social worker licensed pursuant to chapter  
3 467E, an advanced practice registered nurse with a psychiatric  
4 or clinical nurse specialization licensed under chapter 457, or  
5 a physician assistant licensed under section 453-5.3, and a  
6 patient for the purpose of determining that the patient is  
7 capable, and that the patient does not appear to be suffering  
8 from undertreatment or nontreatment of depression or other  
9 conditions [~~which~~] that may interfere with the patient's ability  
10 to make an informed decision pursuant to this chapter."

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

13 "~~{}~~§327L-2~~{}~~ **Oral and written requests for medication;**  
14 **initiated.** An adult who is capable, is a resident of the State,  
15 and has been determined by an attending provider and consulting  
16 provider to be suffering from a terminal disease, and who has  
17 voluntarily expressed the adult's wish to die, may, pursuant to  
18 section 327L-9, submit:

- 19 (1) Two oral requests, a minimum of [~~twenty~~] fifteen days  
20 apart; and  
21 (2) One written request,



1 for a prescription that may be self-administered for the purpose  
2 of ending the adult's life in accordance with this chapter. The  
3 attending provider shall directly, and not through a designee,  
4 receive all three requests required pursuant to this section."

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

7 "[~~+~~]**\$327L-9**[~~+~~] **Written and oral requests.** To receive a  
8 prescription for medication that a qualified patient may self-  
9 administer to end the qualified patient's life pursuant to this  
10 chapter, a qualified patient shall have made an oral request and  
11 a written request, and reiterate the oral request to the  
12 qualified patient's attending provider [~~not~~] no less than  
13 [~~twenty~~] fifteen days after making the initial oral request. At  
14 the time the qualified patient makes the second oral request,  
15 the attending provider shall offer the qualified patient an  
16 opportunity to rescind the request."

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

19 "[~~+~~]**\$327L-11**[~~+~~] **Waiting periods.** (a) [~~Not~~] Except as  
20 otherwise provided in subsection (c), no less than [~~twenty~~]  
21 fifteen days shall elapse between the qualified patient's



1 initial oral request and the taking of steps to make available a  
2 prescription pursuant to section 327L-4(a)(12). [~~Not~~]

3 (b) No less than forty-eight hours shall elapse between  
4 the qualified patient's written request and the taking of steps  
5 to make available a prescription pursuant to section 327L-  
6 4(a)(12).

7 (c) If the qualified patient's attending provider attests  
8 that the qualified patient will, within a reasonable medical  
9 judgment, die within fifteen days after making the initial oral  
10 request, the fifteen day waiting period shall be waived and the  
11 qualified patient may reiterate the oral request to the  
12 attending provider at any time after making the initial oral  
13 request."

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

16 "(c) The department shall annually collect and review all  
17 information submitted pursuant to this chapter. The information  
18 collected shall be confidential and shall be collected in [~~such~~]  
19 a manner that protects the privacy of all qualified patients,  
20 the qualified patients' family, and any attending provider,  
21 consulting provider, or counselor involved with a qualified



1 patient pursuant to this chapter. Information collected  
2 pursuant to this ~~[section]~~ chapter by the department or retained  
3 as the result of incidental or routine communication with  
4 providers and qualified patients shall not be disclosed,  
5 discoverable, or compelled to be produced in any civil,  
6 criminal, administrative, or other proceeding."

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

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

10 "Notify" means to deliver a separate statement in writing  
11 to a health care provider specifically informing the health care  
12 provider ~~[prior to]~~ before the health care provider's  
13 participation in actions covered by this chapter of the health  
14 care facility's policy regarding participation in actions  
15 covered by this chapter.

16 ~~["Participate]~~ "Participation in actions covered by this  
17 chapter" means to perform the duties of an attending provider  
18 pursuant to section 327L-4, the consulting provider function  
19 pursuant to section 327L-5, or the counseling referral function  
20 or counseling pursuant to section 327L-6. The term does not  
21 include:





- 1           (1) Making an initial determination that a patient has a
- 2           terminal disease and informing the patient of the
- 3           medical prognosis;
- 4           (2) Providing information about this chapter to a patient
- 5           upon the request of the patient;
- 6           (3) Providing a patient, upon the request of the patient,
- 7           with a referral to another [~~physician,~~] provider; or
- 8           (4) Entering into a contract with a patient as the
- 9           patient's attending provider, consulting provider, or
- 10          counselor to act outside of the course and scope of
- 11          the health care provider's capacity as an employee or
- 12          independent contractor of a health care facility."

13           SECTION 8. If any provision of this Act, or the  
 14 application thereof to any person or circumstance, is held  
 15 invalid, the invalidity does not affect other provisions or  
 16 applications of the Act that can be given effect without the  
 17 invalid provision or application, and to this end the provisions  
 18 of this Act are severable.

19           SECTION 9. Statutory material to be repealed is bracketed  
 20 and stricken. New statutory material is underscored.

21           SECTION 10. This Act shall take effect on July 1, 2060.



# H.B. NO. 1823 H.D. 2

**Report Title:**

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

**Description:**

Authorizes advanced practice registered nurses and physician assistants to practice medical aid in dying or provide counseling to a qualified patient. Amends the mandatory waiting period between oral requests and the provision of a prescription. Prohibits the disclosure, discovery, or compelled production of information collected or retained pursuant to incidental or routine communication between DOH and qualified patients or providers. Effective 7/1/2060. (HD2)

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

