STAND. COM. REP. NO. 2424

Honolulu, Hawaii
FEB 19 2026

RE: S.B. No. 3077
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2026
State of Hawaii

Sir:

Your Committee on Health and Human Services, to which was referred S.B. No. 3077 entitled:

"A BILL FOR AN ACT RELATING TO HEALTH CARE,"

begs leave to report as follows:

The purpose and intent of this measure is to adopt the Uniform Health Care Decisions Act (2023), as modified, to replace existing chapters related to advance health care directives and advance mental health care directives.

Your Committee received testimony in support of this measure from the Department of the Attorney General, State Council on Developmental Disabilities, and Department of Health.

Your Committee received testimony in opposition to this measure from the Hawaii Disability Rights Center, Hawaii Family Forum, Hawai'i Care Choices, Diocese of Honolulu, Kaua'i Hospice, and three individuals.

Your Committee received comments on this measure from the Healthcare Association of Hawaii, Kōkua Mau, Kaiser Permanente Hawai'i, and one individual.

Your Committee finds that in 1999, the Legislature passed the Uniform Health-Care Decisions Act (1993), which was enacted and codified as chapter 327E, Hawaii Revised Statutes, and in 2004,

passed an advance mental health care directives law, which was enacted and codified as chapter 327G, Hawaii Revised Statutes. Your Committee further finds that these laws should be updated and consolidated into one unified law regarding health care decisions to avoid confusion and conflicting provisions. By adopting the Uniform Health-Care Decisions Act (2023) in amended form, this measure expands upon the framework for determining whether an individual has capacity, removes legal hurdles for creating advance directives, addresses both advance health care directives and advance mental health care directives within the same statutory framework, and allows an individual to assent to a "Ulysses clause" in an advance mental health care directive that prevents the individual from revoking their advance directive during specified psychiatric or psychological events in the future.

Your Committee has amended this measure by:

(1) Inserting language to establish that a health care instruction, whether oral or written, shall not revoke, suspend, or otherwise invalidate an advance health care directive unless the individual expressly states an intent to revoke or modify, in whole or in part, the advance health care directive and is determined to have capacity to make health care decisions at the time the revocation or modification is made;

(2) Inserting language to clarify that the existence of a conflict between an advance mental health care directive and another advance health care directive shall be determined based on the specific health care decision at issue, rather than on whether the individual's condition is characterized as mental or physical;

(3) Inserting language clarifying the authority of appointed agents and attending health care provider when there is a conflict between an advance mental health care directive and advance health care directive;

(4) Inserting language providing that health care providers who rely in good faith on a determination made by appointed agents when there is a conflict between an advance mental health care directive and advance health

care directive shall not be subject to civil or criminal liability or discipline for unprofessional conduct;

(5) Clarifying when a health care professional, or their designee, is required to search for and inform interested persons of an individual's lack of capacity and that a default surrogate should be selected;

(6) Inserting language clarifying that a disqualification of a default surrogate is effective only if made by an individual who retains capacity;

(7) Deleting language that would have disqualified a former spouse or civil union partner from acting as a default surrogate under certain circumstances, with certain exceptions;

(8) Deleting language that would have authorized an agent or a default surrogate to consent to placement of an individual who lacks capacity to make health care decisions in a nursing home without specific authorization by the individual under certain circumstances;

(9) Deleting language that would have authorized an individual to appoint multiple individuals as co-agents in a power of attorney for health care;

(10) Inserting language to require a health care professional or health care institution that refuses to provide health care consistent with a health care instruction or health care decision to provide continuing care to the patient while the patient remains under the refusing provider or institution's care;

(11) Inserting language to clarify that a health care professional or health care institution acting in good faith shall not be subject to civil or criminal liability or to discipline for unprofessional conduct for refusing to comply with an advance health care directive if the directive requires care that is contrary to generally accepted health care standards

applicable to the health care professional or health care institution;

(12) Inserting language to clarify that for an emergency department of a health care institution or health care professional who is an emergency medical services personnel or first responder personnel to not be liable for violating an individual's health instruction or decision, the personnel must have not been aware in advance of a provider order for life-saving treatment;

(13) Updating the dates relating to the interpretation, validity, and effect of advanced health care directives; continuation of default surrogate status; and chapter applicability from January 1, 2026 to January 1, 2027, to align with this measure's effective date;

(14) Inserting language to require the Attorney General, in consultation with the Department of Health, to convene and facilitate a working group to review, discuss, and provide recommendations regarding the implementation of the Uniform Health-Care Decisions Act, as amended by this measure;

(15) Inserting an implementation date of July 1, 2029;

(16) Inserting an effective date of January 30, 2050, to encourage further discussion; and

(17) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3077, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3077, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Health and Human
Services,

Services,

JOY A. SAN BUENAVENTURA, Chair

The Senate
Thirty-Third Legislature
State of Hawai'i

Record of Votes
Committee on Health and Human Services
HHS

Bill / Resolution No.:*	Committee Referral:	Date:
SB 3077	HHS, JDC	2/13/2026

☐ The Committee is reconsidering its previous decision on this measure.

If so, then the previous decision was to: _____

The Recommendation is:

☐ Pass, unamended 2312 ☑ Pass, with amendments 2311 ☐ Hold 2310 ☐ Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
SAN BUENAVENTURA, Joy A. (C)	✓			
MCKELVEY, Angus L.K. (VC)		✓		
KANUHA, Dru Mamo	✓			
KEOHOKALOLE, Jarrett	✓			
FEVELLA, Kurt	3 AM	✓		
TOTAL	3	2	0	0

Recommendation: ☑ Adopted ☐ Not Adopted

Chair's or Designee's Signature:

Distribution: Original — File with Committee Report; Yellow — Committee; Pink — Drafting Agency

*Only one measure per Record of Votes

Revised: 01/21/26