

JAN 21 2011

S.B. NO. 803

A BILL FOR AN ACT

RELATING TO DEATH WITH DIGNITY.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 DEATH WITH DIGNITY

6 PART I. GENERAL PROVISIONS

7 § -1 **Definitions.** As used in this chapter, unless the
8 context clearly requires otherwise:

9 "Adult" means an individual who is eighteen years of age or
10 older.

11 "Alternate physician" means a physician who assumes the
12 responsibilities relinquished by an attending physician who
13 declines or is unable to fulfill the responsibilities of an
14 attending physician as required under section -31(a).

15 "Attending physician" means the physician who has primary
16 responsibility for the care of a patient and treatment of the
17 patient's terminal disease.

18 "Capable" means that, in the opinion of:



- 1 (1) A court; or
- 2 (2) The patient's attending physician or consulting
- 3 physician, psychiatrist, or psychologist,
- 4 a patient has the ability to make and communicate health care
- 5 decisions to health care providers, including communication
- 6 through persons familiar with the patient's manner of
- 7 communicating if those persons are available.

8 "Consulting physician" means a physician who is qualified

9 by specialty or experience to make a professional diagnosis and

10 prognosis regarding the patient's disease.

11 "Counseling" means one or more consultations as necessary

12 between a state licensed psychiatrist or psychologist and a

13 patient for the purpose of determining that the patient is

14 capable and not suffering from a psychiatric or psychological

15 disorder causing impaired judgment.

16 "Department" means the department of health.

17 "Health care facility" means:

- 18 (1) A hospital that has an organized medical staff and
- 19 permanent facilities that include inpatient beds, and
- 20 that has medical services, including physician
- 21 services and continuous nursing services under the
- 22 supervision of registered nurses, to provide diagnosis



1 and medical or surgical treatment primarily for
2 acutely ill patients and accident victims, or to
3 provide treatment for the mentally ill, or to provide
4 treatment in special inpatient care facilities. For
5 purposes of this definition, a "special inpatient care
6 facility" is a facility having permanent inpatient
7 beds and other facilities designed and used for
8 special health care purposes, including:
9 rehabilitation centers, college infirmaries,
10 chiropractic facilities, facilities for the treatment
11 of alcoholism or drug abuse, or inpatient care
12 facilities, and any other facility falling within a
13 classification established by the department, after
14 determination of the need for that classification and
15 the level and kind of health care appropriate for that
16 classification; or

- 17 (2) A long-term care facility that has permanent
18 facilities that include inpatient beds, providing
19 medical services, including nursing services but
20 excluding surgical procedures except as may be
21 permitted by the rules of the department, to provide



1 treatment for two or more unrelated patients. The
2 term "long-term care facility" includes:

3 (A) A skilled nursing facility, whether an
4 institution or a distinct part of an institution,
5 that is primarily engaged in providing to
6 inpatients skilled nursing care and related
7 services for patients who require medical or
8 nursing care, or rehabilitation services for the
9 rehabilitation of injured, disabled, or sick
10 persons; or

11 (B) An intermediate care facility that provides, on a
12 regular basis, health-related care and services
13 to individuals who do not require the degree of
14 care and treatment that a hospital or skilled
15 nursing facility is designed to provide, but who,
16 because of their mental or physical condition,
17 require care and services above the level of room
18 and board that can be made available to them only
19 through institutional facilities.

20 The term shall not be construed to include home health agencies,
21 residential facilities, hospice programs, and private homes.



1 "Health care provider" means a person licensed, certified,
2 or otherwise authorized or permitted by the laws of this State
3 to administer health care or dispense medication in the ordinary
4 course of business or practice of a profession and includes a
5 health care facility.

6 "Informed decision" means a decision that is:

7 (1) Made by a qualified patient to request and obtain a
8 prescription to end life in a humane and dignified
9 manner;

10 (2) Based upon an appreciation of the relevant facts; and

11 (3) Made after being fully informed by the attending
12 physician of:

13 (A) The qualified patient's medical diagnosis;

14 (B) The qualified patient's prognosis;

15 (C) The potential risks associated with taking the
16 medication to be prescribed;

17 (D) The probable result of taking the medication to
18 be prescribed; and

19 (E) The feasible alternatives, including comfort
20 care, hospice care, and pain control.

21 "Medically confirmed" means the medical opinion of the
22 attending physician has been confirmed by a consulting physician



1 who has examined the patient and the patient's relevant medical
2 records.

3 "Patient" means a person who is under the care of a
4 physician.

5 "Physician" means a doctor of medicine or osteopathy
6 licensed to practice medicine by the Hawaii medical board
7 pursuant to chapter 453.

8 "Qualified patient" means a capable adult who is a resident
9 of Hawaii and has satisfied the requirements of this chapter in
10 order to obtain a prescription for medication to end life in a
11 humane and dignified manner.

12 "Terminal disease" means an incurable and irreversible
13 disease that has been medically confirmed and will, within
14 reasonable medical judgment, result in the patient's death
15 within six months.

16 § -2 **Severability.** If any provision of this chapter, or
17 the application thereof to any person or circumstance is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the chapter, which can be given effect without
20 the invalid provision or application, and to this end the
21 provisions of this chapter are severable.

22 **PART II. WRITTEN REQUEST FOR MEDICATION**



1 § -21 Who may initiate a written request for medication.

2 (a) An adult patient who is capable, is a resident of Hawaii,
3 and has been determined by the attending physician or alternate
4 physician and consulting physician to be suffering from a
5 terminal disease, and who has voluntarily expressed the wish to
6 die, may make a written request for medication for the purpose
7 of ending that adult patient's life in a humane and dignified
8 manner in accordance with this chapter.

9 (b) No person shall qualify as a qualified patient under
10 this chapter solely because of age or disability.

11 § -22 Form of the written request. (a) A valid request
12 for medication under this chapter shall be in substantially the
13 form described in section -61, signed and dated by the
14 qualified patient and witnessed by at least two individuals who,
15 in the presence of the qualified patient, attest that to the
16 best of their knowledge and belief, the qualified patient is
17 capable, acting voluntarily, and is not being coerced to sign
18 the request.

19 (b) One of the witnesses shall be a person who is not any
20 of the following:

- 21 (1) A relative of the qualified patient by blood,
22 marriage, or adoption;



1 (2) A person who, at the time the request is signed, would
2 be entitled to any portion of the estate of the
3 qualified patient upon death under any will or by
4 operation of law; or

5 (3) An owner, operator, or employee of a health care
6 facility where the qualified patient is receiving
7 medical treatment or is a resident.

8 (c) The qualified patient's attending physician or
9 alternate physician at the time the request is signed shall not
10 be a witness.

11 (d) If the qualified patient is in a long-term care
12 facility at the time the written request is made, a third
13 witness shall be required in addition to the two witnesses
14 described in subsection (a). The third witness shall be an
15 individual designated by the facility and shall have the
16 qualifications specified by the department by rule.

17 **PART III. SAFEGUARDS**

18 **§ -31 Attending physician responsibilities; alternate**
19 **physician.** (a) The attending physician shall:

20 (1) Make the initial determination of whether a patient
21 has a terminal disease, is capable, and has made the
22 request voluntarily;



- 1 (2) Request that the patient demonstrate Hawaii residency
- 2 pursuant to section -40;
- 3 (3) To ensure that the patient is making an informed
- 4 decision, inform the patient of:
- 5 (A) The patient's medical diagnosis;
- 6 (B) The patient's prognosis;
- 7 (C) The potential risks associated with taking the
- 8 medication to be prescribed;
- 9 (D) The probable result of taking the medication to
- 10 be prescribed; and
- 11 (E) The feasible alternatives, including comfort
- 12 care, hospice care, and pain control;
- 13 (4) Refer the patient to a consulting physician for
- 14 medical confirmation of the diagnosis and
- 15 determination that the patient is capable and acting
- 16 voluntarily;
- 17 (5) Refer the patient for counseling if appropriate
- 18 pursuant to section -33;
- 19 (6) Recommend that the patient notify next of kin as
- 20 provided in section -35;
- 21 (7) Counsel the patient about the importance of having
- 22 another person present when the patient takes the



- 1 medication prescribed pursuant to this chapter and of
2 not taking the medication in a public place;
- 3 (8) Inform the patient that the patient may rescind the
4 request at any time and in any manner, and shall offer
5 the patient an opportunity, pursuant to section
6 -37, to rescind the request at the end of the
7 fifteen-day waiting period;
- 8 (9) Verify, immediately prior to writing the prescription
9 for medication under this chapter, that the patient is
10 making an informed decision;
- 11 (10) Fulfill the medical record documentation requirements
12 of section -39;
- 13 (11) Ensure that all appropriate steps are carried out in
14 accordance with this chapter prior to writing a
15 prescription for medication to enable a qualified
16 patient to end life in a humane and dignified manner;
17 and
- 18 (12) (A) Dispense medications directly, including
19 ancillary medications intended to facilitate the
20 desired effect, to minimize the qualified
21 patient's discomfort; provided the attending
22 physician is registered as a dispensing physician



1 with the Hawaii medical board, has a current Drug
2 Enforcement Administration certificate, and
3 complies with any applicable administrative rule;
4 or

5 (B) With the patient's written consent:

6 (i) Contact a pharmacist and inform the
7 pharmacist of the prescription; and

8 (ii) Deliver the written prescription personally
9 or by mail to the pharmacist, who shall
10 dispense the medications either to the
11 qualified patient, the attending physician,
12 or an expressly identified agent of the
13 patient.

14 (b) Notwithstanding any other provision of law, the
15 attending physician may sign the qualified patient's death
16 certificate.

17 (c) If at any time an attending physician declines or is
18 unable to fulfill any of the responsibilities detailed in
19 subsection (a), particularly subsection (a)(12) regarding
20 dispensing medication to a patient, the attending physician
21 shall relinquish the responsibilities to an alternate physician
22 who is willing and able to fulfill the responsibilities detailed



1 in subsection (a). The alternate physician shall confirm with
2 the attending physician or the consulting physician that the
3 diagnosis has not changed and that the patient is capable, is
4 acting voluntarily, has made an informed decision, and remains a
5 qualified patient under this chapter. The alternate physician
6 may not dispense medication to the qualified patient under
7 subsection (a)(12) until at least fifteen days after the
8 alternate physician's initial consultation with the patient.

9 § -32 **Consulting physician confirmation.** Before a
10 patient is deemed a qualified patient under this chapter, the
11 consulting physician shall examine the patient and the patient's
12 relevant medical records and confirm in writing the attending
13 physician's diagnosis that the patient is suffering from a
14 terminal disease and shall verify that the patient is capable,
15 is acting voluntarily, and has made an informed decision. If
16 necessary, the consulting physician shall also confirm with the
17 alternate physician, pursuant to section -31(c), that the
18 diagnosis has not changed and that the patient is capable, is
19 acting voluntarily, has made an informed decision, and remains a
20 qualified patient under this chapter.

21 § -33 **Counseling referral.** If, in the opinion of the
22 attending physician, the alternate physician, or the consulting



1 physician, a patient may be suffering from a psychiatric or
2 psychological disorder causing impaired judgment, any one of the
3 physicians shall refer the patient for counseling. No
4 medication to end life in a humane and dignified manner shall be
5 prescribed until the person performing the counseling determines
6 that the patient is not suffering from a psychiatric or
7 psychological disorder causing impaired judgment.

8 § -34 **Informed decision.** No qualified patient shall
9 receive a prescription for medication to end life in a humane
10 and dignified manner unless the qualified patient has made an
11 informed decision. Immediately prior to writing a prescription
12 for medication under this chapter, the attending or alternate
13 physician shall verify that the qualified patient is making an
14 informed decision.

15 § -35 **Family notification.** The attending or alternate
16 physician shall recommend that the qualified patient notify the
17 next of kin of the qualified patient's request for medication
18 pursuant to this chapter. A qualified patient who declines or
19 is unable to notify next of kin shall not have the qualified
20 patient's request denied for that reason.

21 § -36 **Written and oral requests.** To receive a
22 prescription for medication to end life in a humane and



1 dignified manner, a qualified patient shall make an oral request
2 or a written request. If an oral request is made, the qualified
3 patient shall reiterate the oral request to the attending or
4 alternate physician no less than fifteen days after making the
5 initial oral request. At the time the qualified patient makes
6 the second oral request, the attending or alternate physician
7 shall offer the qualified patient an opportunity to rescind the
8 request.

9 § -37 **Right to rescind request.** A qualified patient who
10 has made a request may rescind the request at any time and in
11 any manner regardless of whether the person who made the request
12 under this part is capable, as defined in section -1. No
13 prescription for medication under this chapter may be written
14 without the attending or alternate physician offering the
15 qualified patient an opportunity to rescind the request.

16 § -38 **Waiting periods.** No less than fifteen days shall
17 elapse between the qualified patient's initial oral request and
18 the writing of a prescription under this chapter. No less than
19 forty-eight hours shall elapse between the patient's written
20 request and the writing of a prescription under this chapter.



1 § -39 **Medical record documentation requirements.** The
2 following shall be documented or filed in a qualified patient's
3 medical record:

4 (1) All oral requests by the qualified patient for
5 medication to end life in a humane and dignified
6 manner;

7 (2) All written requests by a qualified patient for
8 medication to end life in a humane and dignified
9 manner;

10 (3) The attending physician's diagnosis, prognosis, and
11 determination that the patient is capable, acting
12 voluntarily, and has made an informed decision and, if
13 necessary, the alternate physician's confirmation that
14 the diagnosis has not changed and that the patient is
15 capable, is acting voluntarily, has made an informed
16 decision, and remains a qualified patient under this
17 chapter;

18 (4) The consulting physician's diagnosis, prognosis, and
19 verification that the patient is capable, acting
20 voluntarily, and has made an informed decision;

21 (5) A report of the outcome and determinations made during
22 counseling, if performed;



1 (6) The attending or alternate physician's offer to the
2 qualified patient the opportunity to rescind the
3 qualified patient's request at the time of the
4 qualified patient's second oral request pursuant to
5 section -36;

6 (7) A note by the attending or alternate physician
7 indicating that all requirements under this chapter
8 have been met and indicating the steps taken to carry
9 out the request, including a notation of the
10 medication prescribed; and

11 (8) A completed form reporting the event to be completed
12 by a monitor who is required to be present at the
13 event pursuant to section -41.

14 § **-40 Residency requirement.** Only requests made by
15 Hawaii residents who have been domiciled or physically present
16 in the State for a continuous period of at least six months
17 prior to the time the initial oral request for medication to end
18 life is made under this chapter shall be granted. Factors
19 establishing Hawaii residency include:

20 (1) Possession of a Hawaii driver's license;

21 (2) Registration to vote in Hawaii;



- 1 (3) Evidence that the person owns or leases property in
- 2 Hawaii;
- 3 (4) Filing of a Hawaii tax return for the most recent tax
- 4 year; or
- 5 (5) Any other documentation that establishes legal
- 6 residency in the State.

7 § -41 **Monitor required; form.** (a) A qualified patient

8 shall designate a competent adult to act as a monitor who shall

9 be present at the time of actual administration of the

10 medication to the qualified patient and shall witness the event.

11 The monitor shall have the power to act on behalf of the

12 qualified patient to:

- 13 (1) Stop the administration of the medication if it has
- 14 not yet been carried out; or
- 15 (2) Enlist medical assistance to attempt to reverse the
- 16 effect of the medication if the medication has already
- 17 been administered,
- 18 if the monitor has reason to believe that the qualified patient
- 19 has had a change of mind and is not able to effectively express
- 20 or communicate the wish not to proceed taking the medication.



1 (b) The department of health shall develop a form for a
2 monitor to complete upon witnessing and participating in the
3 event described under this section.

4 § -42 Department requirements. (a) The department
5 shall annually review a sample of records maintained pursuant to
6 this chapter and shall require any health care provider upon
7 dispensing medication pursuant to this chapter to file a copy of
8 the dispensing record with the department.

9 (b) The department shall adopt rules pursuant to chapter
10 91 to facilitate the collection of information regarding
11 compliance with this chapter. Except as otherwise required by
12 law, the information collected shall not be a government record
13 under chapter 92F and shall not be made available for inspection
14 by the public.

15 (c) The department shall generate and make available to
16 the public an annual statistical report of information collected
17 under subsection (b).

18 (d) Upon the filing of a death certificate under section
19 338-9 of any qualified patient under this chapter, the
20 department shall designate the cause of death as the underlying
21 terminal disease or diseases as diagnosed under section

22 -31(a)(1).



1 § -43 **Effect on construction of wills, contracts, and**
2 **other agreements.** (a) No provision in a contract, will, or
3 other agreement, whether written or oral, to the extent the
4 provision would affect whether a person may make or rescind a
5 request for medication to end life in a humane and dignified
6 manner, shall be valid.

7 (b) No obligation owing under any currently existing
8 contract shall be conditioned or affected by the making or
9 rescinding of a request, by a person who is a qualified patient,
10 for medication to end life in a humane and dignified manner.

11 § -44 **Insurance or annuity policies.** The sale,
12 procurement, or issuance of any life, health, or accident
13 insurance or annuity policy or the rate charged for any policy
14 in this State shall not be conditioned upon or affected by the
15 making or rescinding of a request, by a person who is a
16 qualified patient, for medication to end life in a humane and
17 dignified manner. A qualified patient's act of being
18 administered medication to end life in a humane and dignified
19 manner shall not have an effect upon any life, health, or
20 accident insurance or annuity policy issued in this State, nor
21 be construed as a suicide for purposes of any life, health, or



1 accident insurance or annuity policy issued in this State for
2 purposes of section 431:10D-108(b)(5).

3 § -45 **Construction of chapter.** Nothing in this chapter
4 shall be construed to authorize a physician or any other person
5 to end life by lethal injection, mercy killing, or active
6 euthanasia. Actions taken in accordance with this chapter, for
7 any purpose, shall not constitute suicide, assisted suicide,
8 mercy killing, or homicide under the law.

9 **PART IV. IMMUNITIES AND LIABILITIES**

10 § -51 **Immunities; basis for prohibiting health care**
11 **provider or monitor from participation; notification;**
12 **permissible sanctions.** (a) Except as provided in section

13 -52:

14 (1) No person shall be subject to civil or criminal
15 liability or professional disciplinary action for
16 participating in actions taken in good faith
17 compliance with this chapter. This includes being
18 present when a qualified patient takes the prescribed
19 medication to end life in a humane and dignified
20 manner;

21 (2) No professional organization or association, or health
22 care provider, may subject a person to censure,



1 discipline, suspension, loss of license, loss of
2 privileges, loss of membership, or other penalty for
3 participating or refusing to participate in good faith
4 compliance with this chapter;

5 (3) No request by a qualified patient for, or provision by
6 an attending or alternate physician of, medication in
7 good faith compliance with this chapter shall
8 constitute neglect for any purpose of law or provide
9 the sole basis for the appointment of a guardian or
10 conservator; and

11 (4) No health care provider shall be under any duty,
12 whether by contract, statute, or any other legal
13 requirement, to participate in the provision to a
14 qualified patient of medication to end life in a
15 humane and dignified manner. If a health care
16 provider is unable or unwilling to carry out a
17 qualified patient's request under this chapter, and
18 the qualified patient transfers the qualified
19 patient's care to a new health care provider, the
20 prior health care provider shall transfer, upon
21 request, a copy of the qualified patient's relevant
22 medical records to the new health care provider.



- 1 (b) Except as provided in section -52:
- 2 (1) Notwithstanding any other provision of law, a health
- 3 care provider may prohibit another health care
- 4 provider from participating in activities covered by
- 5 this chapter on the premises of the prohibiting
- 6 provider if the prohibiting provider has notified the
- 7 health care provider of the prohibiting provider's
- 8 policy regarding prohibition of participation in
- 9 activities covered by this chapter. Nothing in this
- 10 paragraph shall prevent a health care provider from
- 11 providing health care services to a qualified patient
- 12 that does not constitute participation in activities
- 13 covered by this chapter;
- 14 (2) Notwithstanding subsection (a), a health care provider
- 15 may subject another health care provider to the
- 16 sanctions stated in this paragraph if the sanctioning
- 17 health care provider has notified the sanctioned
- 18 provider prior to participation in activities covered
- 19 by this chapter that it prohibits participation in
- 20 those activities:
- 21 (A) Loss of privileges, loss of membership, or other
- 22 sanction provided pursuant to the medical staff



1 bylaws, policies, and procedures of the
2 sanctioning health care provider if the
3 sanctioned provider is a member of the
4 sanctioning provider's medical staff and
5 participates in this chapter while on the health
6 care facility premises of the sanctioning health
7 care provider, but not including the private
8 medical office of a physician or other provider;

9 (B) Termination of lease or other property contract
10 or other nonmonetary remedies provided by lease
11 contract, not including loss or restriction of
12 medical staff privileges or exclusion from a
13 provider panel, if the sanctioned provider
14 participates in this chapter while on the
15 premises of the sanctioning health care provider
16 or on property that is owned by or under the
17 direct control of the sanctioning health care
18 provider; or

19 (C) Termination of contract or other nonmonetary
20 remedies provided by contract if the sanctioned
21 provider participates in activities covered by
22 this chapter while acting in the course and scope



1 of the sanctioned provider's capacity as an
2 employee or independent contractor of the
3 sanctioning health care provider. Nothing in
4 this subparagraph shall be construed to prevent:

5 (i) A health care provider from participating in
6 activities covered by this chapter while
7 acting outside the course and scope of the
8 provider's capacity as an employee or
9 independent contractor; or

10 (ii) A qualified patient from contracting with
11 the qualified patient's attending or
12 alternate physician and consulting physician
13 to act outside the course and scope of the
14 provider's capacity as an employee or
15 independent contractor of the sanctioning
16 health care provider; and

17 (3) A health care provider that imposes sanctions pursuant
18 to paragraph (2) shall follow all due process and
19 other procedures the sanctioning health care provider
20 may have, including, at a minimum, reasonable notice
21 and an opportunity for a hearing, that are related to



1 the imposition of sanctions on another health care
2 provider.

3 For the purposes of this subsection:

4 "Notify" means to make a separate statement in writing to
5 the health care provider specifically informing the health care
6 provider prior to the provider's participation in this chapter
7 of the sanctioning health care provider's policy about
8 participation in activities covered by this chapter.

9 "Participate" or "participation in activities covered by
10 this chapter":

11 (1) Means to perform the duties of an attending or
12 alternate physician pursuant to section -31, the
13 consulting physician function pursuant to section
14 -32, the counseling function pursuant to section
15 -33, or the monitoring function pursuant to section
16 -41;

17 (2) Shall not include:

18 (A) Making an initial determination that a patient
19 has a terminal disease and informing the patient
20 of the medical prognosis;

21 (B) Providing information about this chapter to a
22 patient upon the request of the patient;



1 (C) Providing a patient, upon the request of the
2 patient, with a referral to another physician; or
3 (D) A qualified patient contracting with the
4 patient's attending or alternate physician and
5 consulting physician to act outside of the course
6 and scope of the provider's capacity as an
7 employee or independent contractor of the
8 sanctioning health care provider.

9 (c) Suspension or termination of staff membership or
10 privileges under subsection (b) is not reportable or otherwise a
11 basis for action under section 453-7.5 or 453-8. Action taken
12 pursuant to section -31, -32, or -33 shall not be the
13 sole basis for a report or complaint of unprofessional or
14 dishonorable conduct under section 453-7.5 or 453-8.

15 (d) No provision of this chapter shall be construed to
16 allow a lower standard of care for patients in the community
17 where the patient is treated or a similar community.

18 (e) Actions taken pursuant to this chapter shall not be
19 grounds for revocation, limitation, suspension, or denial of
20 licenses under section 453-8; provided that the health care
21 provider has complied fully with this chapter.



1 § **-52 Liabilities.** (a) A person who, without
2 authorization of the qualified patient, wilfully alters or
3 forges a request for medication, or conceals or destroys a
4 rescission of that request, with the intent or effect of causing
5 the patient's death shall be guilty of a class A felony.

6 (b) Any person who coerces or exerts undue influence on a
7 patient to request medication for the purpose of ending the
8 patient's life, or to destroy a rescission of a request, shall
9 be guilty of a class A felony.

10 (c) Nothing in this chapter limits further liability for
11 civil damages resulting from other negligent conduct or
12 intentional misconduct by any person.

13 (d) The penalties in this chapter shall not preclude
14 criminal penalties applicable under any other law.

15 § **-53 Claims by governmental entity for costs incurred.**

16 Any governmental entity that incurs costs resulting from a
17 qualified patient terminating life pursuant to this chapter in a
18 public place shall have a claim against the estate of the
19 qualified patient to recover costs and reasonable attorney fees
20 related to enforcing the claim.

21 **PART V. FORM OF THE REQUEST**



1 § -61 Form of the request. A request for medication as
2 authorized by this chapter shall be in substantially the
3 following form:

4 REQUEST FOR MEDICATION

5 TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

6 I, _____, am an adult of sound mind. I am suffering
7 from _____, which my attending or alternate physician
8 has determined is a terminal disease that has been medically
9 confirmed by a consulting physician. I have been fully informed
10 of my diagnosis, prognosis, the nature of medication to be
11 prescribed and potential associated risks, the expected result,
12 and the feasible alternatives, including comfort care, hospice
13 care, and pain control.

14 I request that my attending or alternate physician prescribe
15 medication that will end my life in a humane and dignified
16 manner.

17 INITIAL ONE:

18 _____ I have informed my family of my decision and taken their
19 opinions into consideration.

20 _____ I have decided not to inform my family of my decision.

21 _____ I have no family to inform of my decision.



1 I understand that I have the right to rescind this request at
2 any time.

3 I understand the full import of this request and I expect to die
4 when I take the medication to be prescribed. I further
5 understand that, although most deaths occur within three hours,
6 my death may take longer and my physician has counseled me about
7 this possibility.

8 I make this request voluntarily and without reservation, and I
9 accept full moral responsibility for my actions.

10 Signed: _____

11 Dated: _____

12 **DECLARATION OF WITNESSES**

13 We declare that the person signing this request:

14 (1) Is personally known to us or has provided proof of
15 identity;

16 (2) Signed this request in our presence;

17 (3) Appears to be of sound mind and not under duress, fraud, or
18 undue influence; and

19 (4) Is not a patient for whom either of us is the attending or
20 alternate physician.

21 _____ Witness 1/Date

22 _____ Witness 2/Date



1 _____ Witness 3/Date

2 NOTE: One witness shall not be a relative (by blood, marriage,
3 or adoption) of the person signing this request, shall not be
4 entitled to any portion of the person's estate upon death, and
5 shall not own, operate, or be employed at a health care facility
6 where the person is a patient or resident. If the patient is an
7 inpatient at a health care facility, one of the witnesses shall
8 be an individual designated by the facility. The form shall
9 contain checkboxes to indicate the status of each witness with
10 respect to these qualifications."

11 SECTION 2. Chapter 461, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§461- Compliance with death with dignity law.
15 Notwithstanding any law to the contrary, nothing in this chapter
16 shall be deemed to prohibit a registered pharmacist from
17 dispensing medications to a qualified patient, the qualified
18 patient's attending or alternate physician, or an expressly
19 identified agent of the qualified patient for the purpose of
20 ending the qualified patient's life in a humane and dignified
21 manner, as provided in section -31(a)(12)(B)(ii)."



1 SECTION 3. Section 327E-13, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) This chapter shall not authorize mercy killing,
4 assisted suicide, euthanasia, or the provision, withholding, or
5 withdrawal of health care, to the extent prohibited by other
6 statutes of this State[-]; provided that death with dignity
7 under chapter shall be exempt from this section."

8 SECTION 4. Section 431:10D-108, Hawaii Revised Statutes,
9 is amended by amending subsection (b) to read as follows:

10 "(b) No policy of life insurance shall be delivered or
11 issued for delivery in this State if it contains a provision
12 [~~which~~] that excludes or restricts liability for death caused in
13 a certain specified manner or occurring while the insured has a
14 specified status, except that the policy may contain provisions
15 excluding or restricting coverage as specified therein in event
16 of death under any one or more of the following circumstances:

17 (1) Death as a result directly or indirectly of war,
18 declared or undeclared, or of any act or hazard of
19 such war;

20 (2) Death as a result of aviation under conditions
21 specified in the policy;



- 1 (3) Death as a result of a specified hazardous occupation
- 2 or occupations;
- 3 (4) Death while the insured is a resident outside of the
- 4 United States and Canada; or
- 5 (5) Death within two years from the date of issue of the
- 6 policy as a result of suicide, while sane or
- 7 insane[-]; provided that death with dignity under
- 8 chapter shall not be considered suicide for
- 9 purposes of this section."

10 SECTION 5. This Act does not affect rights and duties that
 11 matured, penalties that were incurred, and proceedings that were
 12 begun, before its effective date.

13 SECTION 6. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect upon its approval.

16

INTRODUCED BY: Amiel Y. Lee
 BY REQUEST



Report Title:

Death With Dignity

Description:

Allows a terminally ill, competent adult to receive medication to end life. Prohibits mercy killings, lethal injections, and active euthanasia. Requires informed consent. Allows alternate doctor to replace attending doctor if latter declines to prescribe. Provides immunity from civil and criminal liability for acts taken in good faith. Imposes penalties for unauthorized altering, forging, concealing, destroying, or exerting undue influence in making or rescinding a request for medication. Requires monitor at time of taking dose.

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

