

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.



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

2 (1) A court; or

3 (2) The patient's attending physician or consulting
4 physician, psychiatrist, or psychologist,

5 a patient has the ability to make and communicate health care
6 decisions to health care providers, including communication
7 through persons familiar with the patient's manner of
8 communicating if those persons are available.

9 "Consulting physician" means a physician who is qualified
10 by specialty or experience to make a professional diagnosis and
11 prognosis regarding the patient's disease.

12 "Counseling" means one or more consultations as necessary
13 between a state licensed psychiatrist or psychologist and a
14 patient for the purpose of determining that the patient is
15 capable and not suffering from a psychiatric or psychological
16 disorder causing impaired judgment.

17 "Department" means the department of health.

18 "Health care facility" means:

19 (1) A hospital with an organized medical staff, with
20 permanent facilities that include inpatient beds, and
21 with medical services, including physician services



1 and continuous nursing services under the supervision
2 of registered nurses, to provide diagnosis and medical
3 or surgical treatment primarily for acutely ill
4 patients and accident victims, or to provide treatment
5 for the mentally ill or to provide treatment in
6 special inpatient care facilities. For purposes of
7 this definition, a "special inpatient care facility"
8 is a facility with permanent inpatient beds and other
9 facilities designed and used for special health care
10 purposes, including: rehabilitation centers, college
11 infirmaries, chiropractic facilities, facilities for
12 the treatment of alcoholism or drug abuse, or
13 inpatient care facilities, and any other establishment
14 falling within a classification established by the
15 department, after determination of the need for that
16 classification and the level and kind of health care
17 appropriate for that classification; or
18 (2) A long-term care facility with permanent facilities
19 that include inpatient beds, and with medical
20 services, including nursing services but excluding
21 surgical procedures except as may be permitted by the



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1 rules of the department, to provide treatment for two
2 or more unrelated patients. The term "long-term care
3 facility" includes:

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

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



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1 The term shall not be construed to include home health agencies,
2 residential facilities, hospice programs, and homes.

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

8 "Informed decision" means a decision that is:

- 9 (1) Made by a qualified patient to request and obtain a
10 prescription to end the patient's life in a humane and
11 dignified manner;
- 12 (2) Based upon an appreciation of the relevant facts; and
- 13 (3) Made after being fully informed by the attending
14 physician of:
- 15 (A) The qualified patient's medical diagnosis;
- 16 (B) The qualified patient's prognosis;
- 17 (C) The potential risks associated with taking the
18 medication to be prescribed;
- 19 (D) The probable result of taking the medication to
20 be prescribed; and



1 (E) The feasible alternatives, including comfort
2 care, hospice care, and pain control.

3 "Medically confirmed" means the medical opinion of the
4 attending physician has been confirmed by a consulting physician
5 who has examined the patient and the patient's relevant medical
6 records.

7 "Patient" means a person who is under the care of a
8 physician.

9 "Physician" means a doctor of medicine or osteopathy
10 licensed to practice medicine by the Hawaii medical board
11 pursuant to chapter 453.

12 "Qualified patient" means a patient who:

- 13 (1) Is at least fifty years of age;
- 14 (2) Is capable;
- 15 (3) Is a resident of Hawaii in accordance with section
16 -40; and
- 17 (4) Has satisfied the requirements of this chapter to
18 obtain a prescription for medication to end the
19 patient's life in a humane and dignified manner.

20 "Terminal disease" means an incurable and irreversible
21 disease that has been medically confirmed and will, within



1 reasonable medical judgment, result in the patient's death
2 within six months.

3 § -2 **Severability.** Any section of this chapter that is
4 held invalid as to any person or circumstance shall not affect
5 the application of any other section of this chapter that can be
6 given full effect without the invalid section or application.

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

8 § -21 **Who may initiate a written request for medication.**

9 (a) A qualified patient who has been determined by the
10 attending physician or alternate physician and consulting
11 physician to be suffering from a terminal disease, and who has
12 voluntarily expressed the qualified patient's wish to die, may
13 make a written request for medication for the purpose of ending
14 the qualified patient's life in a humane and dignified manner in
15 accordance with this chapter.

16 (b) No person shall qualify to request medication under
17 this chapter solely because of age or disability.

18 (c) A request for medication under this chapter shall be
19 invalid if made by a person who is:

20 (1) Less than fifty years of age;

21 (2) Not capable; or



1 (3) Suffering from a psychiatric or psychological disorder
2 causing impaired judgment.

3 § -22 Form of the written request. (a) A valid request
4 for medication under this chapter shall be in substantially the
5 form set forth in section -61, signed and dated by the
6 qualified patient and witnessed by at least two individuals who,
7 in the presence of the qualified patient, attest that to the
8 best of their knowledge and belief the qualified patient is
9 capable, acting voluntarily, and is not being coerced to sign
10 the request.

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

13 (1) A relative of the qualified patient by blood,
14 marriage, or adoption;

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

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



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

4 (d) If the qualified patient is in a health care facility
5 at the time the written request is made, a third witness shall
6 be required in addition to the two witnesses described in
7 subsection (a). The third witness shall be an individual
8 designated by the health care facility and shall have the
9 qualifications specified by the department by rule.

10 PART III. SAFEGUARDS

11 § -31 Attending physician responsibilities; alternate
12 physician. (a) The attending physician shall:

13 (1) Make the initial determination of whether a patient
14 has a terminal disease, is capable, and has made the
15 request voluntarily;

16 (2) Request that the patient demonstrate Hawaii residency
17 pursuant to section -40;

18 (3) To ensure that the patient is making an informed
19 decision, inform the patient of:

20 (A) The patient's medical diagnosis;

21 (B) The patient's prognosis;



- 1 (C) The potential risks associated with taking the
- 2 medication to be prescribed;
- 3 (D) The probable result of taking the medication to
- 4 be prescribed; and
- 5 (E) The feasible alternatives, including comfort
- 6 care, hospice care, and pain control;
- 7 (4) Refer the patient to a consulting physician for
- 8 medical confirmation of the diagnosis and
- 9 determination that the patient is capable and acting
- 10 voluntarily;
- 11 (5) Refer the patient for counseling if appropriate
- 12 pursuant to section -33;
- 13 (6) Recommend that the patient notify next of kin;
- 14 (7) Counsel the patient about the importance of having
- 15 another person present when the patient takes the
- 16 medication prescribed pursuant to this chapter and of
- 17 not taking the medication in a public place;
- 18 (8) Inform the patient that the patient may rescind the
- 19 request, at any time and in any manner, and offer the
- 20 patient an opportunity, pursuant to section -36,



1 to rescind at the end of the fifteen-day waiting
2 period;

3 (9) Verify, immediately prior to writing the prescription
4 for medication under this chapter, that the patient is
5 making an informed decision;

6 (10) Fulfill the medical record documentation requirements
7 of section -39;

8 (11) Ensure that all appropriate steps are carried out in
9 accordance with this chapter prior to writing a
10 prescription for medication to enable a qualified
11 patient to end the qualified patient's life in a
12 humane and dignified manner; and

13 (12) Either:

14 (A) Dispense medications directly, including
15 ancillary medications, intended to facilitate the
16 desired effect, to minimize the qualified
17 patient's discomfort; provided the attending
18 physician is registered as a dispensing physician
19 with the Hawaii medical board, has a current Drug
20 Enforcement Administration certificate, and



1 complies with any applicable administrative rule;

2 or

3 (B) With the qualified patient's written consent:

4 (i) Contact a pharmacist and inform the
5 pharmacist of the prescription; and

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

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

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



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

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



1 § -33 **Counseling referral.** If, in the opinion of the
2 attending physician, the alternate physician, or the consulting
3 physician, a patient may be suffering from a psychiatric or
4 psychological disorder causing impaired judgment, any one of the
5 physicians shall refer the patient for counseling. No
6 medication to end a patient's life in a humane and dignified
7 manner shall be prescribed until the person performing the
8 counseling determines that the patient is not suffering from a
9 psychiatric or psychological disorder causing impaired judgment.

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

17 § -35 **Family notification.** The attending or alternate
18 physician shall recommend that the qualified patient notify the
19 next of kin of the qualified patient's request for medication
20 pursuant to this chapter. A qualified patient's request shall



1 not be denied because the qualified patient declines or is
2 unable to notify next of kin.

3 § -36 **Written and oral requests.** To receive a
4 prescription for medication to end a qualified patient's life in
5 a humane and dignified manner, a qualified patient shall make an
6 oral request and a written request and shall reiterate the oral
7 request to the qualified patient's attending or alternate
8 physician no less than fifteen days after making the initial
9 oral request. At the time the qualified patient makes a second
10 oral request, the attending or alternate physician shall offer
11 the qualified patient an opportunity to rescind the request.

12 § -37 **Right to rescind request.** A qualified patient may
13 rescind a request for medication pursuant to this chapter at any
14 time and in any manner without regard to the qualified patient's
15 mental state. No prescription for medication under this chapter
16 may be written without the attending or alternate physician
17 offering the qualified patient an opportunity to rescind the
18 request.

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



1 forty-eight hours shall elapse between the qualified patient's
2 written request and the writing of a prescription under this
3 chapter.

4 § -39 Medical record documentation requirements. The
5 following shall be documented or filed in a qualified patient's
6 medical record:

- 7 (1) All oral requests by the qualified patient for
8 medication to end the qualified patient's life in a
9 humane and dignified manner;
- 10 (2) All written requests by the qualified patient for
11 medication to end the qualified patient's life in a
12 humane and dignified manner;
- 13 (3) The attending physician's diagnosis, prognosis, and
14 determination that the patient is capable, is acting
15 voluntarily, and has made an informed decision and, if
16 necessary, the alternate physician's confirmation that
17 the diagnosis has not changed and that the patient is
18 capable, is acting voluntarily, has made an informed
19 decision, and remains a qualified patient under this
20 chapter;



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- 1 (4) The consulting physician's diagnosis, prognosis, and
2 verification that the patient is capable, acting
3 voluntarily, and has made an informed decision;
- 4 (5) A report of the outcome and determinations made during
5 counseling, if applicable;
- 6 (6) The attending or alternate physician's offer to the
7 qualified patient to rescind the qualified patient's
8 request at the time of the qualified patient's second
9 oral request pursuant to section -36;
- 10 (7) A note by the attending or alternate physician
11 indicating that all requirements under this chapter
12 have been met and indicating the steps taken to carry
13 out the request, including a notation of the
14 medication prescribed; and
- 15 (8) A completed form reporting the event, to be completed
16 by a monitor who is required to be present at the
17 event pursuant to section -41.

18 § -40 **Residency requirement.** Only requests made by
19 Hawaii residents who have been domiciled or physically present
20 in the State for a continuous period of at least six months
21 prior to the time the initial oral request for medication to end



1 the patient's life is made under this chapter shall be granted.

2 Factors establishing Hawaii residency include:

- 3 (1) Possession of a Hawaii driver's license;
- 4 (2) Registration to vote in Hawaii;
- 5 (3) Evidence that the person owns or leases property in
6 Hawaii;
- 7 (4) Filing of a Hawaii tax return for the most recent tax
8 year; or
- 9 (5) Any other documentation that establishes legal
10 residency in the State.

11 § -41 Monitor required; form. (a) A qualified patient
12 shall designate a competent adult to act as a monitor and who
13 shall be present at the time of actual administration of the
14 medication to the qualified patient and shall witness the event.
15 The monitor shall have the power to act on behalf of the
16 qualified patient to:

- 17 (1) Stop the administration of the medication if it has
18 not yet been carried out; or
- 19 (2) Enlist medical assistance to attempt to reverse the
20 effect of the medication if the medication has already
21 been delivered,



1 if the monitor has reason to believe that the qualified patient
2 has had a change of mind and is not able to effectively express
3 or communicate the wish not to proceed taking the medication.

4 (b) The department shall develop a form for a monitor to
5 complete upon witnessing and participating in the event
6 described under this section.

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

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

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



1 (d) Upon the filing of a death certificate under section
2 338-9 of any qualified patient under this chapter, the
3 department shall designate the cause of death as the underlying
4 terminal disease or diseases as diagnosed under section
5 -31(a)(1).

6 § -43 **Effect on construction of wills, contracts, and**
7 **other agreements.** (a) No provision in a contract, will, or
8 other agreement, whether written or oral, to the extent the
9 provision would affect whether a qualified patient may make or
10 rescind a request for medication to end the qualified patient's
11 life in a humane and dignified manner, shall be valid.

12 (b) No obligation owing under any currently existing
13 contract shall be conditioned or affected by the making or
14 rescinding of a request, by a qualified patient, for medication
15 to end the qualified patient's life in a humane and dignified
16 manner.

17 § -44 **Insurance or annuity policies.** The sale,
18 procurement, or issuance of any life, health, or accident
19 insurance or annuity policy or the rate charged for any policy
20 in this State shall not be conditioned upon or affected by the
21 making or rescinding of a request, by a qualified patient, for



1 medication to end the qualified patient's life in a humane and
2 dignified manner. A qualified patient's act of administering
3 medication to end the qualified patient's life in a humane and
4 dignified manner shall have no effect upon any life, health, or
5 accident insurance or annuity policy issued in this State, and
6 shall not be construed as a suicide for purposes of any life,
7 health, or accident insurance or annuity policy issued in this
8 State, including for purposes of section 431:10D-108(b)(5).

9 § -45 Construction of chapter. Nothing in this chapter
10 shall be construed to authorize a physician or any other person
11 to end a patient's life by lethal injection, mercy killing, or
12 active euthanasia; provided that a qualified patient may
13 administer medication to end the qualified patient's own life in
14 accordance with this chapter. Actions taken in accordance with
15 this chapter shall not, for any purpose, constitute suicide,
16 assisted suicide, mercy killing, or homicide under the law.

17 PART IV. IMMUNITIES AND LIABILITIES

18 § -51 Immunities; basis for prohibiting health care
19 provider or monitor from participation; notification;
20 permissible sanctions. (a) Except as provided in section

21 -52:



- 1 (1) No person shall be subject to civil or criminal
2 liability or professional disciplinary action for
3 participating in actions taken in good faith
4 compliance with this chapter. This includes being
5 present when a qualified patient takes the prescribed
6 medication to end the qualified patient's life in a
7 humane and dignified manner;
- 8 (2) No professional organization or association, or health
9 care provider, may subject a person to censure,
10 discipline, suspension, loss of license, loss of
11 privileges, loss of membership, or other penalty for
12 participating or refusing to participate in good faith
13 compliance with this chapter;
- 14 (3) No request by a qualified patient for or provision by
15 an attending or alternate physician of medication in
16 good faith compliance with this chapter shall
17 constitute neglect for any purpose of law or provide
18 the sole basis for the appointment of a guardian or
19 conservator; and
- 20 (4) No health care provider shall be under any duty,
21 whether by contract, statute, or any other legal



1 requirement, to participate in the provision to a
2 qualified patient of medication to end the qualified
3 patient's life in a humane and dignified manner. If a
4 health care provider is unable or unwilling to carry
5 out a qualified patient's request under this chapter,
6 and the qualified patient transfers the qualified
7 patient's care to a new health care provider, the
8 prior health care provider shall transfer, upon
9 request, a copy of the qualified patient's relevant
10 medical records to the new health care provider.

11 (b) Except as provided in section -52:

12 (1) Notwithstanding any other provision of law, a health
13 care provider may prohibit another health care
14 provider from participating in actions taken pursuant
15 to this chapter on the premises of the prohibiting
16 provider if the prohibiting provider has notified the
17 health care provider of the prohibiting provider's
18 policy regarding participating in actions taken
19 pursuant to this chapter. Nothing in this paragraph
20 shall prevent a health care provider from providing
21 health care services to a qualified patient that does



1 not constitute participation in actions taken pursuant
2 to this chapter;

3 (2) Notwithstanding subsection (a), a health care provider
4 may subject another health care provider to the
5 sanctions stated in this paragraph if the sanctioning
6 health care provider has notified the sanctioned
7 provider prior to participation in actions taken
8 pursuant to this chapter that it prohibits
9 participation in actions taken pursuant to this
10 chapter:

11 (A) Loss of privileges, loss of membership, or other
12 sanction provided pursuant to the medical staff
13 bylaws, policies, and procedures of the
14 sanctioning health care provider if the
15 sanctioned provider is a member of the
16 sanctioning health care provider's medical staff
17 and participates in actions taken pursuant to
18 this chapter while on the health care facility
19 premises of the sanctioning health care provider,
20 but not including the private medical office of a
21 physician or other provider;



1 (B) Termination of lease or other property contract
2 or other nonmonetary remedies provided by lease
3 contract, not including loss or restriction of
4 medical staff privileges or exclusion from a
5 provider panel, if the sanctioned provider
6 participates in actions taken pursuant to this
7 chapter while on the premises of the sanctioning
8 health care provider or on property that is owned
9 by or under the direct control of the sanctioning
10 health care provider; or

11 (C) Termination of contract or other nonmonetary
12 remedies provided by contract if the sanctioned
13 provider participates in actions taken pursuant
14 to this chapter while acting in the course and
15 scope of the sanctioned provider's capacity as an
16 employee or independent contractor of the
17 sanctioning health care provider. Nothing in
18 this subparagraph shall be construed to prevent:

19 (i) A health care provider from participating in
20 actions taken pursuant to this chapter while
21 acting outside the course and scope of the



- 1 provider's capacity as an employee or
2 independent contractor; or
3 (ii) A qualified patient from contracting with
4 the qualified patient's attending or
5 alternate physician and consulting physician
6 to act outside the course and scope of an
7 employee or independent contractor of the
8 sanctioning health care provider; and
9 (3) A health care provider that imposes sanctions pursuant
10 to paragraph (2) shall follow all due process and
11 other procedures the sanctioning health care provider
12 may have, including, at a minimum, reasonable notice
13 and an opportunity for a hearing, that are related to
14 the imposition of sanctions on another health care
15 provider.

16 For the purposes of this subsection:

17 "Notify" means to make a separate statement in writing to
18 the health care provider specifically informing the health care
19 provider prior to the provider's participation in actions taken
20 pursuant to this chapter of the sanctioning health care



1 provider's policy about participation in activities covered by
2 this chapter.

3 "Participate in actions taken pursuant to this chapter":

4 (1) Means to perform the duties of an attending or
5 alternate physician pursuant to section -31, the
6 consulting physician function pursuant to section
7 -32, the counseling function pursuant to section
8 -33, or the monitoring function pursuant to section
9 -41;

10 (2) Shall not include:

11 (A) Making an initial determination that a patient
12 has a terminal disease and informing the patient
13 of the medical prognosis;

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

16 (C) Providing a patient, upon the request of the
17 patient, with a referral to another physician; or

18 (D) A qualified patient contracting with the
19 patient's attending or alternate physician and
20 consulting physician to act outside of the course
21 and scope of the health care provider's capacity



1 as an employee or independent contractor of the
2 sanctioning health care provider.

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

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

12 (e) Actions taken pursuant to this chapter shall not be
13 grounds for revocation, limitation, suspension, or denial of
14 licenses under section 453-8, so long as the health care
15 provider has complied fully with this chapter.

16 § -52 **Liabilities.** (a) A person who, without
17 authorization of the qualified patient, wilfully alters or
18 forges a request for medication under this chapter, or conceals
19 or destroys a rescission of that request, with the intent or
20 effect of causing the qualified patient's death shall be guilty
21 of a class A felony.



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

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

8 (d) The penalties in this chapter shall not preclude
9 criminal penalties applicable under any other law for conduct
10 that is inconsistent with this chapter.

11 § -53 **Claims by governmental entity for costs incurred.**

12 Any governmental entity that incurs costs resulting from a
13 person terminating the person's life pursuant to this chapter in
14 a public place shall have a claim against the estate of the
15 person to recover costs and reasonable attorney fees related to
16 enforcing the claim.

17 **PART V. FORM OF WRITTEN REQUEST**

18 § -61 **Form of written request.** A written request for
19 medication as authorized by this chapter shall be in
20 substantially the following form:



REQUEST FOR MEDICATION

TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

1
 2
 3 I, _____, am an individual of at least fifty years
 4 of age and of sound mind. I am suffering from _____,
 5 which my attending or alternate physician has determined is a
 6 terminal disease that has been medically confirmed by a
 7 consulting physician. I have been fully informed of my
 8 diagnosis, prognosis, the nature of medication to be prescribed
 9 and potential associated risks, the expected result, and the
 10 feasible alternatives, including comfort care, hospice care, and
 11 pain control.

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

15 INITIAL ONE:

16 _____ I have informed my family of my decision and taken their
 17 _____ opinions into consideration.

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

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

20 I understand that I have the right to rescind this request at
 21 any time.



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

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

8 Signed: _____

9 Dated: _____

10 **DECLARATION OF WITNESSES**

11 We declare that the person signing this request:

- 12 (1) Is personally known to us or has provided proof of
- 13 identity;
- 14 (2) Signed this request in our presence;
- 15 (3) Appears to be of sound mind and not under duress, fraud, or
- 16 undue influence; and
- 17 (4) Is not a patient for whom either of us is the attending or
- 18 alternate physician.

19 _____ Witness 1/Date

20 _____ Witness 2/Date

21 _____ Witness 3/Date



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

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

13 "§461- Compliance with death with dignity law.
14 Notwithstanding any law to the contrary, nothing in this chapter
15 shall be deemed to prohibit a registered pharmacist from
16 dispensing medications to a qualified patient, the qualified
17 patient's attending or alternate physician, or an expressly
18 identified agent of the qualified patient for the purpose of
19 ending the qualified patient's life in a humane and dignified
20 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 not be affected by 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;



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- 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:

F. Bl B/R

JAN 28 2015



H.B. NO. 1255

Report Title:

Death with Dignity

Description:

Allows a terminally ill, competent adult of at least 50 years of age to get lethal dose of medication to end life. Prohibits physicians and others from administering mercy killings, lethal injections, and active euthanasia. Requires informed consent. Allows alternate doctor to replace attending doctor if latter declines to prescribe. 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.

