
A BILL FOR AN ACT

RELATING TO AID IN DYING.

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

1 SECTION 1. The legislature acknowledges that adult,
2 terminally ill individuals have a fundamental right to determine
3 their own medical treatment options as they near the end of
4 life. Advances in technology are such that the process of dying
5 can be extended even when no cure or likelihood of successful
6 medical intervention exists. This can often result in
7 terminally ill patients undergoing unremitting pain, discomfort,
8 and an irreversible reduction in their quality of life in their
9 final days.

10 Currently in Hawaii, patients who are terminally ill and
11 mentally capable have limited options to end their suffering if
12 the dying process becomes unbearable. Palliative care, VSED
13 (voluntarily stopping eating and drinking), or stopping
14 artificial ventilation or other life-sustaining therapy to
15 advance the dying process are all options a dying individual can
16 choose. However, physicians do not always offer these options



1 to their patients, and more importantly, these options do not
2 always result in a quick or peaceful death.

3 "Medical aid in dying" describes a medical practice defined
4 by established standards of care. It is well-recognized that
5 medical aid in dying can ease the unnecessary suffering of
6 individuals by providing a measure of control over the
7 progression of a terminal illness and provide a safe,
8 compassionate alternative to what terminally ill patients
9 describe as unbearable pain, suffering, and loss of autonomy in
10 their final days. Medical aid in dying has been the law in
11 Oregon for twenty years, and since implementation, the quality
12 of end-of-life care, pain management, and the use of hospice
13 have all greatly improved. Data from Oregon also demonstrate
14 that there have been no abuses of the law, and in contrast to
15 the fears of opponents, the elderly, disabled, and uninsured
16 have not been negatively impacted by the use of aid in dying.
17 The availability of medical aid in dying provides comfort to
18 terminally ill individuals even when they ultimately choose not
19 to self-administer the medication.

20 A growing body of scholarly research on medical aid-in-
21 dying practice demonstrates the utility and safety of the



1 practice of upholding an individual's right to self-
2 determination. Five states now authorize medical aid in dying,
3 including Oregon, Washington, Montana, Vermont, and California.
4 Over twenty states are currently considering legislation to
5 authorize the practice. Therefore, it is the intent of the
6 legislature to:

7 (1) Ensure that mentally capable, terminally ill adults in
8 Hawaii who choose to do so are able to take advantage
9 of medical aid in dying medication to facilitate a
10 peaceful death; and

11 (2) Ensure that physicians who assist patients in
12 obtaining aid in dying medication are not subject to
13 civil or criminal liability for participating in good
14 faith compliance with this Act.

15 SECTION 2. This Act shall be known and may be cited as the
16 Hawaii Patient Choice at End of Life Act of 2017.

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

20 "CHAPTER
21 HAWAII PATIENT CHOICE AT END OF LIFE ACT



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

3 "Adult" means an individual who is eighteen years of age or
4 older.

5 "Attending physician" means a person who:

6 (1) Is authorized to practice medicine or osteopathic
7 medicine under chapter 453;

8 (2) Has primary responsibility for the patient's
9 healthcare and treatment of their terminal illness;
10 and

11 (3) Routinely provides medical care to patients with
12 advanced and terminal illnesses in the normal course
13 of their medical practice, which may include the
14 provision of medical care other than medical aid in
15 dying.

16 "Capacity" means an individual's ability to understand the
17 significant benefits, risks, and alternatives to proposed
18 healthcare and to make and communicate an informed healthcare
19 decision.

20 "Healthcare provider" means an individual licensed,
21 certified, or otherwise authorized or permitted by law to



1 provide healthcare in the ordinary course of business or
2 practice of a profession.

3 "Informed healthcare decision" means a decision by an
4 individual to request a prescription for medical aid in dying
5 based on an understanding and acknowledgement of the relevant
6 facts and that is made after being fully informed by the
7 individual's attending physician of:

- 8 (1) The individual's medical diagnosis;
- 9 (2) The individual's prognosis;
- 10 (3) The potential risks associated with taking the
11 medication to be prescribed;
- 12 (4) The probable result of taking the medication to be
13 prescribed;
- 14 (5) The possibility that the individual may not choose to
15 obtain the medication, or may obtain the medication
16 but may decide not to take it; and
- 17 (6) The feasible alternatives or additional treatment
18 opportunities available to the individual, including
19 hospice and palliative care.



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1 "Medical aid in dying" means the medical practice of an
2 attending physician prescribing medication to a qualified
3 individual.

4 "Qualified individual" means a terminally ill adult with
5 the capacity to make an informed healthcare decision to self-
6 administer the medication prescribed by medical aid in dying to
7 bring about a peaceful death if the individual so chooses.

8 "Self-administration" means a qualified individual's
9 affirmative, conscious, and physical act of administering
10 medication prescribed by medical aid in dying to bring about the
11 individual's own death.

12 "Terminally ill" means the final stage of an incurable or
13 irreversible medical condition that has been medically confirmed
14 and will, within reasonable medical judgment, result in death
15 within six months.

16 § -2 Medical aid in dying specifically authorized. A
17 qualified individual may request a prescription for medical aid
18 in dying from their attending physician and may obtain
19 medication that the individual may choose to self-administer to
20 bring about a peaceful death.



1 § -3 **Standard of care.** (a) Medical aid in dying, as
2 well as information related to medical aid in dying, shall be
3 provided consistent with this chapter and the current standard
4 of care for medical aid in dying.

5 (b) No healthcare provider shall intentionally mislead an
6 individual, with an affirmative statement or by omission,
7 regarding the existence of medical aid in dying as a lawful
8 medical practice in this State.

9 (c) No healthcare provider shall punish, retaliate, or
10 otherwise discipline another healthcare provider for refusing to
11 violate subsection (b).

12 § -4 **Effects on related statutes.** (a) Nothing in this
13 chapter shall be construed to authorize a healthcare provider to
14 end an individual's life by euthanasia.

15 (b) This chapter does not limit or otherwise affect the
16 provision, administration, or receipt of palliative sedation
17 consistent with the current medical standard of care.

18 (c) Medical aid in dying that occurs in accordance with
19 this chapter shall not be construed for any purpose to
20 constitute suicide, assisted suicide, or homicide under the law.



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1 (d) A qualified individual's good faith use of medication
2 prescribed by medical aid in dying shall not, by itself, trigger
3 a coroner's or deputy coroner's duty to perform an inquest.
4 Subsection (c) shall not be construed to conflict with section
5 841-3.

6 (e) The cause of death listed on death certificates of
7 qualified individuals who avail themselves of medical aid in
8 dying shall be the individual's underlying terminal illness.

9 (f) Seeking or using medical aid in dying shall not affect
10 in any manner any contract, will, life insurance, health
11 insurance, accident insurance, annuity, or other agreement.

12 (g) A request by a qualified individual for, or provision
13 by an attending physician of, medication prescribed by medical
14 aid in dying in good faith compliance with this chapter shall
15 not constitute neglect or elder abuse for any purpose of law, or
16 provide the basis for the appointment of a guardian or
17 conservator.

18 (h) A qualified individual who possesses or self-
19 administers medication prescribed by medical aid in dying
20 consistent with this chapter shall not, solely for these
21 reasons, be considered a danger to one's self as defined in



1 section 334-1 or a person suffering from serious physical harm
2 under section 663-1.6.

3 (i) Healthcare providers and individuals shall not be
4 subject to civil or criminal liability for participating in good
5 faith compliance with this chapter, including an individual who
6 is present when a qualified individual self-administers the
7 medication prescribed by medical aid in dying.

8 (j) A healthcare provider or professional organization
9 shall not subject an individual to censure, discipline,
10 suspension, loss of license, loss of privileges, loss of
11 membership, or any other penalty for participating in good faith
12 compliance with this chapter or for declining to participate.

13 (k) A healthcare provider who is unable or unwilling to
14 comply with a qualified individual's request for medical aid in
15 dying under this chapter shall cooperate in the transfer of the
16 individual's care to a participating provider so that the
17 individual's request can be evaluated in a neutral and unbiased
18 manner. If the individual transfers care to a new healthcare
19 provider, the prior healthcare provider shall immediately
20 transfer a copy of the individual's relevant medical records to
21 the new healthcare provider.



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1 (1) Purposely or knowingly coercing or exerting undue
 2 influence on an individual to request medication for the purpose
 3 of ending their life or to conceal a rescission of a request
 4 shall be punishable as a class felony."

5 SECTION 4. If any provision of this Act, or the
 6 application thereof to any person or circumstance, is held
 7 invalid, the invalidity does not affect other provisions or
 8 applications of the Act that can be given effect without the
 9 invalid provision or application, and to this end the provisions
 10 of this Act are severable.

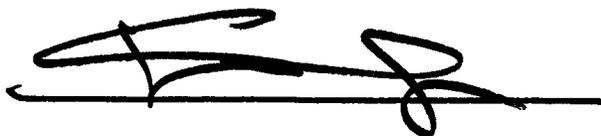
11 SECTION 5. This Act shall take effect upon its approval.

12



INTRODUCED BY:







JAN 19 2017



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Report Title:

Death with Dignity; Aid in Dying; Patient Choice; Physicians

Description:

Allows a terminally ill adult with the capacity to make an informed healthcare decision to request a prescription for aid in dying medication from their attending physician to facilitate a peaceful death. Ensures that physicians who assist patients in obtaining aid in dying medication are not subject to civil or criminal liability.

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