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

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

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

A growing body of scholarly research on medical aid-in-dying practice demonstrates the utility and safety of the
practice of upholding an individual's right to self-
determination. Five states now authorize medical aid in dying,
including Oregon, Washington, Montana, Vermont, and California.
Over twenty states are currently considering legislation to
authorize the practice. Therefore, it is the intent of the
legislature to:

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

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

SECTION 2. This Act shall be known and may be cited as the

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

"CHAPTER

HAWAII PATIENT CHOICE AT END OF LIFE ACT
§ 1 Definitions. As used in this chapter, unless the context clearly requires otherwise:

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

"Attending physician" means a person who:

1. Is authorized to practice medicine or osteopathic medicine under chapter 453;
2. Has primary responsibility for the patient's healthcare and treatment of their terminal illness; and
3. Routinely provides medical care to patients with advanced and terminal illnesses in the normal course of their medical practice, which may include the provision of medical care other than medical aid in dying.

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

"Healthcare provider" means an individual licensed, certified, or otherwise authorized or permitted by law to
provide healthcare in the ordinary course of business or practice of a profession.

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

1. The individual's medical diagnosis;
2. The individual's prognosis;
3. The potential risks associated with taking the medication to be prescribed;
4. The probable result of taking the medication to be prescribed;
5. The possibility that the individual may not choose to obtain the medication, or may obtain the medication but may decide not to take it; and
6. The feasible alternatives or additional treatment opportunities available to the individual, including hospice and palliative care.
"Medical aid in dying" means the medical practice of an attending physician prescribing medication to a qualified individual.

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

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

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

§ -2 Medical aid in dying specifically authorized. A qualified individual may request a prescription for medical aid in dying from their attending physician and may obtain medication that the individual may choose to self-administer to bring about a peaceful death.
§ 3 Standard of care. (a) Medical aid in dying, as well as information related to medical aid in dying, shall be provided consistent with this chapter and the current standard of care for medical aid in dying.

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

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

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

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

(c) Medical aid in dying that occurs in accordance with this chapter shall not be construed for any purpose to constitute suicide, assisted suicide, or homicide under the law.
(d) A qualified individual's good faith use of medication prescribed by medical aid in dying shall not, by itself, trigger a coroner's or deputy coroner's duty to perform an inquest. Subsection (c) shall not be construed to conflict with section 841-3.

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

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

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

(h) A qualified individual who possesses or self-administers medication prescribed by medical aid in dying consistent with this chapter shall not, solely for these reasons, be considered a danger to one's self as defined in
section 334-1 or a person suffering from serious physical harm
under section 663-1.6.

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

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

(k) A healthcare provider who is unable or unwilling to
comply with a qualified individual's request for medical aid in
dying under this chapter shall cooperate in the transfer of the
individual's care to a participating provider so that the
individual's request can be evaluated in a neutral and unbiased
manner. If the individual transfers care to a new healthcare
provider, the prior healthcare provider shall immediately
transfer a copy of the individual’s relevant medical records to
the new healthcare provider.
(1) Purposely or knowingly coercing or exerting undue influence on an individual to request medication for the purpose of ending their life or to conceal a rescission of a request shall be punishable as a class felony."

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

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

INTRODUCED BY:
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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