

HOUSE OF REPRESENTATIVES

AMENDMENT TO: H.B. No. 2739, H.D. 1

OFFERED BY: Representative Andria Tupola 

DATE: 3/6/2018

SECTION 1. **Providers.** House Bill No. 2739, H.D. 1, is amended with regard to health care providers by amending section 3 of the bill as follows:

1. To ensure that a rigorous psychological screening for mental health issues occurs, and to better align with proven policy in other states like Oregon, amending the definitions of "capable" and "counseling" to strike references to clinical social workers;
2. To ensure that all health care providers involved in this process meet the high professional standards required for medical treatment by the State of Hawaii, amending the definition of "health care provider" to clarify that the person must be licensed or certified by the law of this State;
3. To ensure that health care providers are given a clear standard for what is required to fully inform a patient of the relevant facts, amending the definition of "informed decision" to clarify that the phrase "informed consent" is synonymous;
4. To ensure that patients receive the best possible medical advice regarding their full range of end-of-life options, including palliative care, on pages 11 and 14, adding a requirement that the attending provider refer the patient to a physician specializing in palliative care for a consultation regarding alternative options;
5. To ensure that health care providers retain the right to conscientiously object to this process and to decline to participate in any part of it, on pages 23

and 24, following the recommendations of the Department of the Attorney General by clarifying that health care providers are not required to inform a patient about the option to obtain life-ending medication or refer a qualified patient to another provider if they are unable or unwilling to participate; and

6. To ensure that life-saving professionals are not inadvertently punished for doing their jobs, on page 24, providing that emergency medical services and nursing care providers shall not be subject to civil or criminal liability for unknowingly rendering medical assistance to a qualified patient who has self-administered the prescribed medication to end the patient's life.

SECTION 2. **Patients.** House Bill No. 2739, H.D. 1, is amended with regard to patients by amending section 3 of the bill as follows:

1. To ensure that teenagers cannot access life-ending medication at an earlier age than society entrusts them with the decision to use alcohol or tobacco, amending the definition of "adult" to raise the age requirement from eighteen to twenty-one years of age or older;
2. To ensure this does not legalize "euthanasia", amending the definition of "prescription" to clarify that the qualified patient must either self-administer, if the patient chooses to do so, or otherwise dispose of the medication properly;
3. To ensure that manageable diseases or conditions do not qualify, amending the definition of "terminal disease" to clarify that the disease must be one that will, within reasonable medical judgment, produce death within six months even with reasonable and ordinary medical treatment; and
4. To ensure that qualified patients are truly residents of the State of Hawaii, on page 17, deleting "evidence that the patient owns or leases property in Hawaii" as a factor that may demonstrate state residency.

SECTION 3. **Enforcement.** House Bill No. 2739, H.D. 1, is amended with regard to enforcement of the law by amending sections 3 and 12 of the bill as follows:

1. To ensure accurate medical records, on page 13, restoring the requirement that both the terminal disease and self-administration of the medication shall be listed on the death certificate as the immediate causes of death;
2. To ensure that malpractice is discovered and punished if it occurs, on pages 18 and 19, deleting language that would limit the disclosure of information in criminal and civil malpractice proceedings;
3. To protect minors and the general public from accidental ingestion of lethal drugs, on page 20, following the suggestion of the Department of the Attorney General by requiring the Department of Health to make rules to govern lawful means of disposal of unused medication, and inserting an unspecified felony criminal penalty for failure to lawfully dispose of unused medication;
4. Because the term "good faith" is not an objective standard that would allow for clear-cut and consistent prosecution of wrongdoers, on pages 22 through 24, following the recommendations of the Department of the Attorney General by deleting each instance of the term "good faith"; and
5. To ensure that the law will be revisited by a future legislature for the implementation of any improvements shown by experience to be necessary or desirable, on page 39, adding a sunset provision that will repeal the Act after three years, on December 31, 2021.

SECTION 4. House Bill No. 2739, H.D. 1 is amended by, in section 3 of the bill, making conforming technical amendments and renumbering sections of the bill accordingly.

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CHIEF CLERK, HOUSE OF REPRESENTATIVES		