

JAN 24 2018

S.B. NO. 2727

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# A BILL FOR AN ACT

RELATED TO HEALTH.

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

1           SECTION 1. The legislature finds that some states have  
2 enacted laws that establish a regulated process to allow their  
3 mentally competent adult residents who have a terminal illness  
4 with a confirmed prognosis of six or fewer months to live to  
5 voluntarily request and receive a prescription medication for  
6 self-administration so that they can die in a peaceful, humane  
7 manner. These laws, with labels such as "medical aid in dying"  
8 laws, "death with dignity" laws, or "end-of-life-options" laws,  
9 are based on the concept that the terminally ill person should  
10 have the ability to make reasoned end-of-life decisions and  
11 choose to end life in a peaceful, humane, and dignified manner  
12 or determine how much pain and suffering to endure.

13           The legislature also finds that Oregon's death with dignity  
14 act has been in effect since 1997. Similar laws are also in  
15 effect in California, Colorado, Vermont, and Washington. This  
16 act is modeled on the Oregon statute and includes safeguards to  
17 protect patients. These safeguards include confirmation by two



1 providers of the patient's diagnosis, prognosis, mental  
2 competence, and voluntariness of the request; multiple requests  
3 by the patient: an oral request followed by a signed written  
4 request that is witnessed by two people, one of whom must be  
5 unrelated to the patient, and a subsequent oral restatement of  
6 the request; and two waiting periods between the requests and  
7 the writing of the prescription. At all times the patient  
8 retains the right to rescind the request and is under no  
9 obligation to fill the prescription or ingest the medication.

10 The legislature concludes that terminally ill residents of  
11 the State should be able to determine their own medical  
12 treatment at the end of their lives.

13 The purpose of this Act is to enact a medical aid in dying  
14 act.

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

18 "CHAPTER

19 MEDICAL AID IN DYING ACT

20 § -1 Definitions. As used in this chapter, unless the  
21 context otherwise requires:



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

3 "Attending provider" means a physician licensed pursuant to  
4 chapter 453 or an advanced practice registered nurse licensed  
5 pursuant to chapter 457 who has primary responsibility for the  
6 care of the patient and treatment of the patient's terminal  
7 disease.

8 "Capable" means that in the opinion of a court or in the  
9 opinion of the patient's attending provider or consulting  
10 provider, psychiatrist, or psychologist, a patient has the  
11 ability to make and communicate health care decisions to health  
12 care providers.

13 "Consulting provider" means a physician licensed pursuant  
14 to chapter 453 who is qualified by specialty or experience to  
15 make a professional diagnosis and prognosis regarding the  
16 patient's disease, but who has not previously assumed  
17 responsibility for the care of the patient with the attending  
18 provider.

19 "Counseling" means one or more consultations as necessary  
20 between a state-licensed psychiatrist or psychologist and a  
21 patient for the purpose of determining that the patient is



1 capable and not suffering from a psychiatric or psychological  
2 disorder or depression causing impaired judgment.

3 "Department" means the department of health.

4 "Health care facility" shall have the same meaning as in  
5 section 323D-2.

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

11 "Informed decision" means a decision by a qualified patient  
12 to request and obtain a prescription, which the qualified  
13 patient may self-administer to end the qualified patient's life  
14 in a humane and dignified manner, that is based on an  
15 appreciation of the relevant facts and after being fully  
16 informed by the attending provider of:

- 17 (1) The medical diagnosis;  
18 (2) The prognosis;  
19 (3) The potential risks associated with taking the  
20 medication to be prescribed;



1 (4) The probable result of taking the medication to be  
2 prescribed; and

3 (5) The feasible alternatives, including but not limited  
4 to comfort care, hospice care, and pain control.

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

9 "Patient" means a person who is under the care of a  
10 physician.

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

14 "Qualified patient" means a capable adult who is a resident  
15 of the State and has satisfied the requirements of this chapter  
16 in order to obtain a prescription for medication that the  
17 qualified patient may self-administer to end the qualified  
18 patient's life in a humane and dignified manner.

19 "Terminal disease" means an incurable and irreversible  
20 disease that has been medically confirmed and will, within  
21 reasonable medical judgment, produce death within six months.



1           §   -2   **Written request for medication; initiated.**   (a)   An  
2   adult who is capable, is a resident of the State, and has been  
3   determined by the attending provider and consulting provider to  
4   be suffering from a terminal disease, and who has voluntarily  
5   expressed the adult's wish to die, may make a written request  
6   for medication that the adult may self-administer for the  
7   purpose of ending the adult's life in a humane and dignified  
8   manner in accordance with this chapter.

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

11          §   -3   **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       -23, 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 of  
17   sound mind, is acting voluntarily, and is not being coerced to  
18   sign the request.

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

20           (1)   A relative of the patient by blood, marriage, or  
21                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, trust, or  
4           other legal instrument, or by 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 provider at the time  
9           the request is signed shall not be a witness.

10          (d) If the qualified patient is a patient in a long-term  
11          care facility at the time the written request is made, one of  
12          the witnesses shall be an individual designated by the facility  
13          who has qualifications specified by the department of health by  
14          rule.

15          § -4 Attending provider responsibilities. (a) The  
16          attending provider shall:

17          (1) Make the initial determination of whether a patient  
18          has a terminal disease, is capable, and has made the  
19          request voluntarily;

20          (2) Request that the patient demonstrate residency  
21          pursuant to section -13;



- 1           (3) To ensure that the patient is making an informed  
2           decision, inform the patient of:
- 3           (A) The medical diagnosis;
- 4           (B) The prognosis;
- 5           (C) The potential risks associated with taking the  
6           medication to be prescribed;
- 7           (D) The probable result of taking the medication to  
8           be prescribed; and
- 9           (E) The feasible alternatives, including but not  
10          limited to comfort care, hospice care, and pain  
11          control;
- 12          (4) Refer the patient to a consulting provider for medical  
13          confirmation of the diagnosis, and for a determination  
14          that the patient is capable and acting voluntarily;
- 15          (5) Refer the patient for counseling if appropriate;
- 16          (6) Recommend that the patient notify next of kin;
- 17          (7) Counsel the patient about the importance of having  
18          another person present when the qualified patient  
19          self-administers the medication prescribed pursuant to  
20          this chapter and of not self-administering the  
21          medication in a public place;



- 1           (8) Inform the patient that a qualified patient has an  
2           opportunity to rescind the request at any time and in  
3           any manner, and offer the qualified patient an  
4           opportunity to rescind at the time of the qualified  
5           patient's second oral request made pursuant to section  
6                       -9;
- 7           (9) Verify, immediately prior to writing the prescription  
8           for medication under this chapter, that the qualified  
9           patient is making an informed decision;
- 10          (10) Fulfill the medical record documentation requirements  
11          of section     -12;
- 12          (11) Ensure that all appropriate steps are carried out in  
13          accordance with this chapter prior to writing a  
14          prescription for medication to enable a qualified  
15          patient to end the qualified patient's life in a  
16          humane and dignified manner; and
- 17          (12) Either:
- 18               (A) Dispense medications directly, including  
19               ancillary medications intended to facilitate the  
20               desired effect to minimize the patient's  
21               discomfort; provided that the attending provider



1 is authorized to dispense controlled substances  
2 pursuant to chapter 329, has a current Drug  
3 Enforcement Administration certificate, and  
4 complies with any applicable administrative rule;  
5 or

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

7 (i) Contact a pharmacist of the qualified  
8 patient's choice and inform the pharmacist  
9 of the prescription; and

10 (ii) Transmit the written prescription  
11 personally, by mail, or electronically to  
12 the pharmacist, who will dispense the  
13 medications to either the qualified patient,  
14 the attending provider, or an expressly  
15 identified agent of the qualified patient.

16 (b) Notwithstanding any other provision of law, an  
17 attending provider may sign the qualified patient's death  
18 certificate. The death certificate shall list the terminal  
19 disease as the immediate cause of death.

20 § -5 Consulting provider confirmation. Before a patient  
21 is qualified under this chapter, a consulting provider shall



1 examine the patient and the patient's relevant medical records  
2 and confirm, in writing, the attending provider's diagnosis that  
3 the patient is suffering from a terminal disease, and verify  
4 that the patient is capable, is acting voluntarily, and has made  
5 an informed decision.

6       § -6 **Counseling referral.** If, in the opinion of either  
7 the attending provider or the consulting provider, a patient may  
8 be suffering from a psychiatric or psychological disorder or  
9 depression causing impaired judgment, the provider shall refer  
10 the patient for counseling. No medication to end a patient's  
11 life in a humane and dignified manner shall be prescribed until  
12 the person performing the counseling determines that the patient  
13 is not suffering from a psychiatric or psychological disorder or  
14 depression causing impaired judgment.

15       § -7 **Informed decision.** No qualified patient shall  
16 receive a prescription for medication to end the qualified  
17 patient's life in a humane and dignified manner unless the  
18 qualified patient has made an informed decision. Immediately  
19 prior to writing a prescription for medication under this  
20 chapter, the attending provider shall verify that the qualified  
21 patient is making an informed decision.



1           §   -8 **Family notification.** The attending provider shall  
2 recommend that the qualified patient notify the next of kin of  
3 the qualified patient's request for medication pursuant to this  
4 chapter. A qualified patient who declines or is unable to  
5 notify next of kin shall not have the qualified patient's  
6 request denied for that reason.

7           §   -9 **Written and oral requests.** To receive a  
8 prescription for medication that a qualified patient may self-  
9 administer to end the qualified patient's life in a humane and  
10 dignified manner, a qualified patient shall have made an oral  
11 request and a written request, and reiterate the oral request to  
12 the qualified patient's attending provider not less than fifteen  
13 days after making the initial oral request. At the time the  
14 qualified patient makes the second oral request, the attending  
15 provider shall offer the qualified patient an opportunity to  
16 rescind the request.

17           §   -10 **Right to rescind request.** A qualified patient may  
18 rescind the request at any time and in any manner without regard  
19 to the qualified patient's mental state. No prescription for  
20 medication under this chapter may be made available pursuant to  
21 section       -4(a)(12) without the attending provider having



1 offered the qualified patient an opportunity to rescind the  
2 request made pursuant to section -9.

3       **§ -11 Waiting periods.** Not less than fifteen days shall  
4 elapse between the qualified patient's initial oral request and  
5 the taking of steps to make available a prescription for  
6 medication pursuant to section -4(a)(12). Not less than  
7 forty-eight hours shall elapse between the qualified patient's  
8 written request and the taking of steps to make available a  
9 prescription for medication pursuant to section -4(a)(12).

10       **§ -12 Medical record; documentation requirements.** The  
11 following shall be documented or filed in a qualified patient's  
12 medical record:

- 13       (1) All oral requests by the qualified patient for  
14 medication to end the qualified patient's life in a  
15 humane and dignified manner;
- 16       (2) All written requests by the qualified patient for  
17 medication to end the qualified patient's life in a  
18 humane and dignified manner;
- 19       (3) The attending provider's diagnosis and prognosis and  
20 determination that the qualified patient is capable,



1 is acting voluntarily, and has made an informed  
2 decision;

3 (4) The consulting provider's diagnosis and prognosis and  
4 verification that the qualified patient is capable, is  
5 acting voluntarily, and has made an informed decision;

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

8 (6) The attending provider's offer to the qualified  
9 patient to rescind the patient's request at the time  
10 of the qualified patient's second oral request made  
11 pursuant to section -9; and

12 (7) A note by the attending provider indicating that all  
13 requirements under this chapter have been met and  
14 indicating the steps taken to carry out the request,  
15 including a notation of the medication prescribed.

16 § -13 **Residency requirement.** Only requests made by  
17 residents of this State under this chapter shall be granted.  
18 Factors demonstrating state residency include but are not  
19 limited to:

20 (1) Possession of a Hawaii driver's license or civil  
21 identification card;

- 1           (2) Registration to vote in Hawaii;
- 2           (3) Evidence that the person owns or leases property in
- 3                 Hawaii; or
- 4           (4) Filing of a Hawaii tax return for the most recent tax
- 5                 year.

6           § -14 Reporting requirements. (a) The department shall

7 annually review a sample of records maintained pursuant to this

8 chapter.

9           (b) The department shall require any health care provider,

10 upon dispensing medication pursuant to this chapter, to file a

11 copy of the dispensing record with the department.

12           (c) The department shall adopt rules to facilitate the

13 collection of information regarding compliance with this

14 chapter. Except as otherwise required by law, the information

15 collected shall not be a public record and shall not be made

16 available for inspection by the public. The department shall

17 retain and exercise reasonable care in maintaining the

18 information collected; provided that the information shall not

19 be subject to any disposal or destruction of records

20 requirements.



1 (d) The department shall generate and make available to  
2 the public an annual statistical report of information collected  
3 under subsection (c).

4 § -15 Disposal of unused medication. A person who has  
5 custody or control of any unused medication dispensed under this  
6 chapter after the death of a qualified patient shall personally  
7 deliver the unused medication for disposal by delivering it to  
8 the nearest qualified facility that properly disposes of  
9 controlled substances, or if none is available, shall dispose of  
10 it by lawful means.

11 § -16 Effect on construction of wills or contracts. (a)  
12 No provision in a will or contract, or other agreement, whether  
13 written or oral, to the extent the provision would affect  
14 whether a person may make or rescind a request for medication to  
15 end the person's life in a humane and dignified manner, shall be  
16 valid.

17 (b) No obligation owing under any currently existing  
18 contract shall be conditioned or affected by the making or  
19 rescinding of a request, by a person, for medication to end the  
20 person's life in a humane and dignified manner.



1           **§ -17 Insurance or annuity policies.** The sale,  
2 procurement, or issuance of any life, health, or accident  
3 insurance or annuity policy or the rate charged for any policy  
4 shall not be conditioned upon or affected by the making or  
5 rescinding of a request, by a person, for medication to end the  
6 person's life in a humane and dignified manner. A qualified  
7 patient's act of ingesting medication to end the qualified  
8 patient's life in a humane and dignified manner shall have no  
9 effect upon a life, health, or accident insurance or annuity  
10 policy.

11           **§ -18 Construction of chapter.** Nothing in this chapter  
12 shall be construed to authorize a physician or any other person  
13 to end a patient's life by lethal injection, mercy killing, or  
14 active euthanasia. Actions taken in accordance with this  
15 chapter shall not, for any purpose, constitute suicide, assisted  
16 suicide, mercy killing, murder, manslaughter, negligent  
17 homicide, or any other criminal conduct under the law.

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



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- 1           (1) No person shall be subject to civil or criminal  
2           liability or professional disciplinary action for  
3           participating or acting in good faith compliance with  
4           this chapter, including being present when a qualified  
5           patient takes the prescribed medication to end the  
6           qualified patient's life in a humane and dignified  
7           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 provider of medication in good faith  
16          compliance with this chapter shall constitute neglect,  
17          harm, self-neglect, or abuse for any purpose of law or  
18          provide the sole basis for the appointment of a  
19          guardian or conservator;
- 20          (4) No health care provider shall be under any duty,  
21          whether by contract, by statute, or by 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 patient's request under this chapter, and the  
6 patient transfers the patient's care to a new health  
7 care provider, the prior health care provider shall  
8 transfer, upon request, a copy of the patient's  
9 relevant medical records to the new health care  
10 provider; and

11 (5) No health care facility shall be subject to civil or  
12 criminal liability for acting in good faith compliance  
13 with this chapter including but not limited to the  
14 designation of a witness for a qualified patient who  
15 makes a written request when residing in a long-term  
16 care facility pursuant to section -3(d).

17 (b) Notwithstanding any other provision of law, a health  
18 care provider may prohibit another health care provider from  
19 participating in actions covered by this chapter on the premises  
20 of the prohibiting provider if the prohibiting provider has  
21 notified the health care provider of the prohibiting provider's



1 policy regarding participation in actions covered by this  
2 chapter. Nothing in this subsection shall prevent a health care  
3 provider from providing health care services to a patient that  
4 do not constitute participation in actions covered by this  
5 chapter.

6 (c) Subsection (a) notwithstanding, a health care provider  
7 may subject another health care provider to the following  
8 sanctions, if the sanctioning health care provider has notified  
9 the sanctioned health care provider prior to participation in  
10 actions covered by this chapter that it prohibits participation  
11 in actions covered by this chapter:

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



- 1           (2) Termination of lease or other property contract or  
2           other nonmonetary remedies provided by lease contract,  
3           not including loss or restriction of medical staff  
4           privileges or exclusion from a provider panel, if the  
5           sanctioned health care provider participates in  
6           actions covered by this chapter while on the premises  
7           of the sanctioning health care provider or on property  
8           that is owned by or under the direct control of the  
9           sanctioning health care provider; or
- 10          (3) Termination of contract or other nonmonetary remedies  
11          provided by contract if the sanctioned health care  
12          provider participates in actions covered by this  
13          chapter while acting in the course and scope of the  
14          sanctioned health care provider's capacity as an  
15          employee or independent contractor of the sanctioning  
16          health care provider; provided that nothing in this  
17          paragraph shall be construed to prevent:
- 18                (A) A health care provider from participating in  
19                actions covered by this chapter while acting  
20                outside the course and scope of the health care



1 provider's capacity as an employee or independent  
2 contractor; or

3 (B) A patient from contracting with the patient's  
4 attending provider and consulting provider to act  
5 outside the course and scope of the provider's  
6 capacity as an employee or independent contractor  
7 of the sanctioning health care provider.

8 (d) A health care provider that imposes sanctions pursuant  
9 to subsection (c) shall follow all due process and other  
10 procedures the sanctioning health care provider may have that  
11 are related to the imposition of sanctions on another health  
12 care provider.

13 (e) For the purposes of this section:

14 "Notify" means a separate statement in writing to the  
15 health care provider specifically informing the health care  
16 provider prior to the health care provider's participation in  
17 actions covered by this chapter of the sanctioning health care  
18 provider's policy regarding participation in actions covered by  
19 this chapter.

20 "Participate in actions covered by this chapter" means to  
21 perform the duties of an attending provider pursuant to



1 section -4, the consulting provider function pursuant to  
2 section -5, or the counseling referral function pursuant to  
3 section -6. The term does not include:

4 (1) Making an initial determination that a patient has a  
5 terminal disease and informing the patient of the  
6 medical prognosis;

7 (2) Providing information about this chapter to a patient  
8 upon the request of the patient;

9 (3) Providing a patient, upon the request of the patient,  
10 with a referral to another physician; or

11 (4) A patient contracting with the patient's attending  
12 provider and consulting provider to act outside of the  
13 course and scope of the provider's capacity as an  
14 employee or independent contractor of the sanctioning  
15 health care provider.

16 (f) Action taken pursuant to sections -4 to -6 shall  
17 not be the sole basis for disciplinary action under section 453-  
18 8 or 457-12.

19 (g) This chapter shall not be construed to allow a lower  
20 standard of care for patients in the community where the patient  
21 is treated or in a similar community.



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1           §   -20   **Prohibited acts; penalties.**   (a)   A person who,  
2   without the authorization of a qualified patient, intentionally  
3   alters or forges a request for medication or conceals or  
4   destroys a rescission of that request to cause the patient's  
5   death shall be guilty of a class A felony.

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

10          (c)   A person who, without authorization of a qualified  
11   patient, intentionally alters, forges, conceals, or destroys an  
12   instrument, the reinstatement or revocation of an instrument, or  
13   any other evidence or document reflecting a qualified patient's  
14   desires and interests, with the intent and effect of causing a  
15   withholding or withdrawal of life-sustaining procedures or of  
16   artificially administered nutrition and hydration that hastens  
17   the death of the qualified patient, shall be guilty of a class A  
18   felony.

19          (d)   Except as provided in subsection (c), it shall be a  
20   misdemeanor for a person without authorization of a qualified  
21   patient to intentionally alter, forge, conceal, or destroy an



1 instrument, the reinstatement or revocation of an instrument, or  
2 any other evidence or document reflecting the principal's  
3 desires and interests with the intent or effect of affecting a  
4 health care decision.

5 (e) Nothing in this section shall limit any liability for  
6 civil damages resulting from any negligent conduct or  
7 intentional misconduct by any person.

8 (f) The penalties in this chapter are cumulative and do  
9 not preclude criminal penalties pursuant to other applicable  
10 state law.

11 § -21 **Claims by governmental entity for costs incurred.**

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

17 § -22 **Severability.** Any provision of this chapter that  
18 is held invalid as to any person or circumstance shall not  
19 affect the application of any other provision of this chapter  
20 that can be given full effect without the invalid section or  
21 application.



1           §   -23   **Form of the request.**   A request for a medication  
2 as authorized by this chapter shall be in substantially the  
3 following form:

4 "REQUEST FOR MEDICATION TO END MY LIFE IN A HUMANE AND DIGNIFIED  
5 MANNER

6           I, \_\_\_\_\_, am an adult of sound mind.

7           I am suffering from \_\_\_\_\_, which my attending  
8 provider has determined is a terminal disease and that has been  
9 medically confirmed by a consulting provider.

10           I have been fully informed of my diagnosis, prognosis, the  
11 nature of medication to be prescribed and potential associated  
12 risks, the expected result, and the feasible alternatives,  
13 including comfort care, hospice care, and pain control.

14           I request that my attending provider prescribe medication  
15 that I may self-administer to end my life in a humane and  
16 dignified manner.

17           INITIAL ONE:

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

20           \_\_\_\_\_ I have decided not to inform my family of my  
21 decision.



1           \_\_\_\_\_ I have no family to inform of my decision.

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

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

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

11           Signed: \_\_\_\_\_

12           Dated: \_\_\_\_\_

13 DECLARATION OF WITNESSES

14           We declare that the person signing this request:

15           (a) Is personally known to us or has provided proof of  
16 identity;

17           (b) Signed this request in our presence;

18           (c) Appears to be of sound mind and not under duress or to  
19 have been induced by fraud, or subjected to undue influence when  
20 signing the request; and



1 (d) Is not a patient for whom either of us is the  
2 attending provider.

3 \_\_\_\_\_ Witness 1 Date \_\_\_\_\_

4 \_\_\_\_\_ Witness 2 Date \_\_\_\_\_

5 NOTE: One witness shall not be a relative (by blood,  
6 marriage, or adoption) of the person signing this request, shall  
7 not be entitled to any portion of the person's estate upon death  
8 and shall not own, operate, or be employed at a health care  
9 facility where the person is a patient or resident. If the  
10 patient is an inpatient at a long-term care facility, one of the  
11 witnesses shall be an individual designated by the facility who  
12 has qualifications specified by the Department of Health by  
13 rule."

14 § -24 Department of health; annual report. The  
15 department shall submit a report of its findings and  
16 recommendations, including but not limited to:

- 17 (1) An annual statistical report of the information
- 18 collected pursuant to section -14(d);
- 19 (2) An annual analysis of the implementation of this
- 20 chapter, including any implementation problems; and
- 21 (3) Any proposed legislation,



1 to the legislature no later than twenty days prior to the  
2 convening of each regular session."

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

5 "(c) This chapter shall not authorize mercy killing,  
6 assisted suicide, euthanasia, or the provision, withholding, or  
7 withdrawal of health care, to the extent prohibited by other  
8 statutes of this State[-]; provided that this subsection shall  
9 not apply to actions taken under chapter ."

10 SECTION 4. Section 327H-2, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12 "(b) Nothing in this section shall be construed to:

- 13 (1) Expand the authorized scope of practice of any  
14 licensed physician;
- 15 (2) Limit any reporting or disciplinary provisions  
16 applicable to licensed physicians and surgeons who  
17 violate prescribing practices; and
- 18 (3) Prohibit the discipline or prosecution of a licensed  
19 physician for:
- 20 (A) Failing to maintain complete, accurate, and  
21 current records that document the physical



- 1 examination and medical history of a patient, the  
2 basis for the clinical diagnosis of a patient,  
3 and the treatment plan for a patient;
- 4 (B) Writing false or fictitious prescriptions for  
5 controlled substances scheduled in the Federal  
6 Comprehensive Drug Abuse Prevention and Control  
7 Act of 1970, 21 United States Code 801 et seq. or  
8 in chapter 329;
- 9 (C) Prescribing, administering, or dispensing  
10 pharmaceuticals in violation of the provisions of  
11 the Federal Comprehensive Drug Abuse Prevention  
12 and Control Act of 1970, 21 United States Code  
13 801 et seq. or of chapter 329;
- 14 (D) Diverting medications prescribed for a patient to  
15 the licensed physician's own personal use; and
- 16 (E) Causing, or assisting in causing, the suicide,  
17 euthanasia, or mercy killing of any individual;  
18 provided that it is not "causing, or assisting in  
19 causing, the suicide, euthanasia, or mercy  
20 killing of any individual" to prescribe,  
21 dispense, or administer medical treatment for the



1           purpose of treating severe acute pain or severe  
2           chronic pain, even if the medical treatment may  
3           increase the risk of death, so long as the  
4           medical treatment is not also furnished for the  
5           purpose of causing, or the purpose of assisting  
6           in causing, death for any reason[-]; provided  
7           that this subparagraph shall not apply to actions  
8           taken under chapter \_\_\_\_\_."

9           SECTION 5. Section 707-701.5, Hawaii Revised Statutes, is  
10          amended by amending subsection (1) to read as follows:

11           "(1) Except as provided in section 707-701, a person  
12          commits the offense of murder in the second degree if the person  
13          intentionally or knowingly causes the death of another  
14          person[-]; provided that this section shall not apply to actions  
15          under chapter \_\_\_\_\_."

16           SECTION 6. Section 707-702, Hawaii Revised Statutes, is  
17          amended by amending subsection (1) to read as follows:

18           "(1) A person commits the offense of manslaughter if:  
19           (a) The person recklessly causes the death of another  
20           person; or



1 (b) The person intentionally causes another person to  
 2 commit suicide[-];  
 3 provided that this section shall not apply to actions taken  
 4 under chapter \_\_\_\_\_."

5 SECTION 7. This Act does not affect rights and duties that  
 6 matured, penalties that were incurred, and proceedings that were  
 7 begun before its effective date.

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

14 SECTION 9. Statutory material to be repealed is bracketed  
 15 and stricken. New statutory material is underscored.

16 SECTION 10. This Act shall take effect upon its approval.  
 17

INTRODUCED BY:

*Clarence v. Nichikaw*

*Pross B B*

*Dundell*

*Armine G. Brown*

*Kalbrook*



# S.B. NO. 2727

**Report Title:**

Health; Medical Aid in Dying

**Description:**

Establishes a medical aid in dying act that establishes a regulatory process under which an adult resident of the State with a medically confirmed terminal disease may obtain a prescription for medication to be self-administered to end the patient's life.

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

