

STAND. COM. REP. NO. 471

Honolulu, Hawaii

FEB 17 2017

RE: S.B. No. 1129  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2017  
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,  
to which was referred S.B. No. 1129 entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

begs leave to report as follows:

The purpose and intent of this measure is to enact a death  
with dignity act in Hawaii.

Your Committee received testimony in support of this measure  
from the American Civil Liberties Union of Hawai'i; LGBT Caucus of  
the Democratic Party of Hawai'i; Compassion & Choices; Compassion  
and Choices Hawai'i; International Longshore and Warehouse Union  
Local 142; Chamber of Commerce for Persons with Disabilities -  
Hawaii; Hawai'i Death with Dignity Society; Hawai'i State  
Democratic Women's Caucus; Nursing Advocates & Mentors, Inc.;  
Filipino-American Advocacy Network; Kupuna Caucus of the  
Democratic Party of Hawai'i; Hawai'i Friends of Civil Rights;  
Americans for Democratic Action - Hawai'i; Democratic Party of  
Hawai'i; Hawai'i Advocates for Consumer Rights; First Unitarian  
Church of Honolulu; Life of the Land; Progressive Democrats of  
Hawaii; Rainbow Family 808; Ho'omana Pono, LLC; and over two  
hundred individuals. Your Committee received testimony in  
opposition to this measure from the Hawaii Republican Party;  
Hawaii Family Forum; Hawaii Federation of Republican Women; St.  
Francis Healthcare System of Hawaii; Hawaii Life Alliance;  
Concerned Women for America of Hawaii; American Nurses



Association; Disability Rights Education & Defense Fund; Hawaii Catholic Conference; The Prayer Center of the Pacific; Not Dead Yet; Second Thoughts Massachusetts: Disability Rights Advocates Against Assisted Suicide; and over five hundred individuals. Your Committee received comments on this measure from the Department of the Attorney General, Department of Health, Board of Nursing, Kokua Mau, Hawai'i Psychological Association, Hawaii Association for Justice, and six individuals.

Your Committee finds that medical aid in dying is a medical practice in which a mentally capable, terminally ill adult with six months or less to live may request a prescription for a medication that the terminally ill adult can self-administer to achieve death in a peaceful, humane, and dignified manner. While hospice and palliative care are widely available and may be an excellent option for some, care provided through these methods is still within the control of a health care provider, not a terminally ill patient who may wish for the freedom to make the patient's own end-of-life decisions. Furthermore, the American public consistently supports medical aid in dying. According to testimony received by your Committee, in Hawaii, a recent poll found that eighty percent of respondents were in favor of this end-of-life care option across all demographics, including ethnicity, age, economic status, and religion.

Your Committee further finds that this measure is modeled after Oregon's groundbreaking Death with Dignity Act, which has been in effect for over twenty years and was enacted during a time when no other state authorized the medical practice of aid in dying. Since that time, other states, including California, Colorado, Vermont, and Washington, have evaluated Oregon's experience and have enacted similar legislation. Your Committee also finds that medical aid in dying is a safe and trusted practice. In the states that have authorized the practice, there has not been a single documented instance of coercion or abuse. The laws in these other states are working as intended. Furthermore, rather than posing a risk to patients or the medical profession, Oregon's Death with Dignity Act has galvanized significant improvements in the care of the state's terminally ill and dying.

Your Committee additionally finds that the availability of the option of medical aid in dying gives a terminally ill



individual autonomy, control, and choice. Your Committee notes that this choice is the overwhelming motivational factor behind the decision to request assistance in dying. A terminally ill individual who seeks medical aid in dying may ultimately not choose to exercise this option; however, the mere availability of such a choice can bring comfort to people in their final days.

Your Committee further finds that any medical aid in dying legislation must include proper safeguards that prevent abuse and coercion. In order for any medical aid in dying option to truly be a choice, it must not be the only option. Accordingly, this measure includes numerous, strict safeguards that protect against abuse and coercion and promote choice. This measure establishes strict eligibility criteria and guidelines that meet the highest standard of care for the medical practice of aid in dying, as described in clinical criteria published in the Journal of Palliative Medicine. Under this measure, to be eligible for aid-in-dying medication, adults must be terminally ill, with a prognosis of six months or less to live, and be mentally capable of making their own health care decisions. Importantly, this measure clearly states that no person shall qualify for medical aid in dying solely based on age or disability.

This measure also has core safeguards that require the attending provider to inform terminally ill adults about other end-of-life options, including comfort care, hospice care, and pain control; require a second provider to confirm the terminal diagnosis, prognosis, and mental capability; and require the terminally ill adult to make two verbal and one written request, signed by two witnesses. In keeping with the overarching theme of choice, this measure clearly states that a qualified patient may rescind a request at any time and in any manner. Furthermore, providers may not write a prescription for medication under this measure without offering a qualified patient the opportunity to rescind a request.

Your Committee concludes that a terminally ill person's end-of-life choices are deeply personal, private matters that should be left to the patient, the patient's family, and the patient's attending provider. Accordingly, this measure permits mentally capable, terminally ill adults in Hawaii to have the choice and autonomy to make informed decisions regarding their end-of-life care.



Your Committee notes that advanced practice registered nurses are a vital part of the health care system in Hawaii and are primary care providers to many patients in the State, particularly in rural areas of the neighbor islands. Amendments to this measure are necessary to ensure advanced practice registered nurses are included in the role of attending providers and consulting providers for qualified patients. Your Committee also notes that the Department of the Attorney General testified that certain language in this bill, regarding identified agents of the patient and protection from civil or criminal liability may need to be clarified. Your Committee notes that additional discussion by your Committee on Judiciary and Labor may be warranted to address these issues.

Your Committee has amended this measure by:

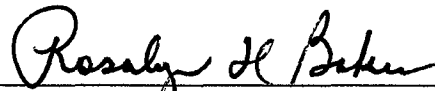
- (1) Clarifying that the new chapter proposed shall be titled, "Medical Aid in Dying Act";
- (2) Amending the definitions of "attending physician" and "consulting physician" to "attending provider" and "consulting provider", respectively, to include advanced practice registered nurses and making associated conforming amendments;
- (3) Amending the definition of "counseling" to include an advanced practice registered nurse;
- (4) Inserting a definition of "health care facility";
- (5) Clarifying that medication prescribed to qualified patients may be taken only through self-administration;
- (6) Clarifying that one of the witnesses for a patient in a long-term care facility must have qualifications specified by the Department of Health, rather than the Department of Human Services;
- (7) Requiring a patient's death certificate to list the underlying terminal disease as the cause of death;



- (8) Clarifying that a civil identification card, commonly known as a Hawaii state identification card, may be used as a factor demonstrating state residency;
- (9) Providing immunity from liability for health care facilities participating in good faith compliance with this measure;
- (10) Making conforming amendments to clarify that existing law on advanced health care directives, pain patients' bill of rights, and provisions in the penal code on murder in the second degree and manslaughter, do not apply to actions taken under this measure; and
- (11) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1129, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1129, S.D. 1, and be referred to your Committee on Judiciary and Labor.

Respectfully submitted on  
behalf of the members of the  
Committee on Commerce, Consumer  
Protection, and Health,



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ROSALYN H. BAKER, Chair



The Senate  
Twenty-Ninth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Commerce, Consumer Protection, and Health**  
**CPH**

Bill / Resolution No.:* <i>SB 1129</i>	Committee Referral: <i>CPH, JDL</i>	Date: <i>2/15/17</i>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended <span style="margin-left: 100px;"><input checked="" type="checkbox"/> Pass, with amendments</span> <span style="margin-left: 100px;"><input type="checkbox"/> Hold</span> <span style="margin-left: 100px;"><input type="checkbox"/> Recommit</span> <div style="display: flex; justify-content: space-between; font-size: small;"> <span>2312</span> <span>2311</span> <span>2310</span> <span>2313</span> </div>				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
NISHIHARA, Clarence K. (VC)	/			
CHANG, Stanley	/			
ESPERO, Will				/
IHARA, Jr., Les	/			
KIDANI, Michelle N.	/			
RUDERMAN, Russell E.	/			
<b>TOTAL</b>	<i>6</i>			<i>1</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <span style="margin-left: 150px;"><input type="checkbox"/> Not Adopted</span>				
Chair's or Designee's Signature: <i>Clarence K Nishihara</i>				
<b>Distribution:</b> <div style="display: flex; justify-content: space-between; font-size: small;"> <span>Original File with Committee Report</span> <span>Yellow Clerk's Office</span> <span>Pink Drafting Agency</span> <span>Goldenrod Committee File Copy</span> </div>				

\*Only one measure per Record of Votes