

Honolulu, Hawaii

MAR 28 2018

RE: H.B. No. 2739
H.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2739, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Allow a mentally capable adult resident of the State who is diagnosed with a medically confirmed terminal disease that will foreseeably result in death in less than six months to choose to obtain a prescription for medication that, when self-administered, will end the person's life, subject to certain conditions and safeguards;
- (2) Establish criminal sanctions for tampering with a qualified patient's request for, or rescission of a request for, a prescription for medication, or coercing a patient to request a prescription, among other acts;
- (3) Ensure that no lawful act by a qualified patient shall affect the validity of provisions in wills, contracts, or insurance or annuity policies; and
- (4) Ensure that no person or healthcare facility shall be subject to civil or criminal liability for acting in good faith compliance with this measure, while also



clarifying that no health care provider or health care facility shall be under any duty to participate in providing a qualified patient with medication to end the qualified patient's life.

Your Committee received testimony in support of this measure from the Governor; LGBT Caucus of the Democratic Party of Hawaii; Hawai'i Psychological Association; Planned Parenthood Votes Northwest and Hawaii; Filipina Advocacy Network; Americans for Democratic Action; Young Progressives Demanding Action; Compassion & Choices Hawaii, including an attached petition containing over one thousand signatures of registered Hawai'i voters; Hawaii State AFL-CIO; O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i; Hawai'i Friends of Civil Rights; Hawai'i Democratic Women's Caucus; Hawaii Alliance for Retired Americans; Ho'omanapono Political Action Committee; Death with Dignity National Center; International Longshore and Warehouse Union, Local 142; and more than one hundred thirty individuals. Your Committee received testimony in opposition to this measure from the Hawaii Family Forum; Hawaii Catholic Conference; Hawaii Self Advocacy Advisory Council; Hau'oli Home Care, LLC; Supportive Care Coalition; Concerned Women for America of Hawaii; American Nurses Association; Hawaii Federation of Republican Women; New Hope Christian Fellowship; Not Dead Yet; Association of Programs for Rural Independent Living; Disability Rights Education and Defense Fund; Association for Persons with Severe Handicaps; National Council on Independent Living; American Association of People with Disabilities; Milwaukee Guild of the Catholic Medical Association; and more than two hundred thirty individuals. Your Committee received comments on this measure from the Queen's Health Systems, Patients Rights Council, and one individual.

Your Committee finds that several other jurisdictions have enacted a medical aid in dying law that has been working in a safe and trusted manner for many years without fail. Your Committee finds that enactment of this measure can serve as a valuable option for competent persons with terminal illnesses to consider along with continued treatment, palliative care, and hospice. Your Committee agrees with your Committee on Commerce, Consumer Protection, and Health that the availability of the option of medical aid in dying gives a terminally ill individual autonomy and control, and that even if the individual chooses not to exercise the option allowed by this measure, retaining the ability



to make important decisions concerning one's final days can bring great comfort.

Your Committee notes that this measure includes numerous safeguards to preclude abuse and coercion, including carefully prescribed eligibility requirements, written and oral confirmations of a qualified patient's request, and the ability for a qualified patient to rescind a request at any time. This measure also clearly states that neither age nor disability shall serve as independent determinative criteria in assessing a terminal disease. As a deterrent to malicious behavior by any persons with access to a qualified patient, this measure includes severe felony penalties for interference or coercion in the request or rescission processes.


Your Committee further finds that ending one's life by the means specified in this measure may, without sufficient statutory provisions, implicate civil or criminal liability on the part of physicians, their associates, and the facilities or institutions where they provide services. For these reasons, this measure specifies detailed immunities for persons and organizations acting in good faith compliance from liabilities arising from those complying actions. Additionally, your Committee notes that any decision to make or rescind a request to end one's life in accordance with this measure shall have no effect on the validity of any provision in a will, contract, or other agreement of the qualified patient, nor shall it be lawful to pre-condition the sale of insurance or annuity policies based on making or not making such a decision.

Finally, your Committee notes that Hawaii in particular has a well-earned reputation among the various states for upholding and enhancing personal liberty. No healthcare provider or healthcare facility in the State will be required to undertake any of the steps allowed under this measure. That some individuals may, after personal reflection and professional consultation, wish to avail themselves of the option addressed by this measure does not diminish the values or beliefs of any other person or group of persons in Hawaii. Accordingly, your Committee finds that this measure provides an important new legal framework to afford the people of the State an additional choice regarding end-of-life care.



As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2739, H.D. 1, and recommends that it pass Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



BRIAN T. TANIGUCHI, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:*	Committee Referral:	Date:
<i>HB 2739, HD1</i>	<i>CPH, JDC</i>	<i>3/23/2018</i>

The Committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike			✓	
KIM, Donna Mercado	✓			
THIELEN, Laura H.	✓			
TOTAL	4	0	1	0

Recommendation:
 Adopted
 Not Adopted

Chair's or Designee's Signature: *Karl Rhoads*

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