
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that in 2018, the State
2 passed the Our Care, Our Choice Act to ensure that all
3 terminally ill individuals have access to the full-range of end-
4 of-life care options. The Our Care, Our Choice Act allows
5 mentally capable, terminally ill individuals with six months or
6 less to live to voluntarily request and receive prescription
7 medication that allows the individual to die in a peaceful,
8 humane, and dignified manner.

9 The legislature further finds that Hawaii's unique
10 geography and shortage of physicians create barriers for
11 qualified terminally ill individuals to access health care.
12 Finding a physician may be burdensome, especially for
13 individuals on the neighbor islands. Hawaii gives advanced
14 practice registered nurses full scope of practice licensure;
15 however, they do not have authority to administer medical-aid-
16 in-dying, thereby further limiting access to care for many
17 individuals. Furthermore, evidence from other states that



1 authorize medical-aid-in-dying demonstrates that even with full
2 access to a supportive health care facility and providers, a
3 high percentage of terminally ill individuals die while waiting
4 to complete the regulatory requirements to qualify for
5 medication under the respective state laws. Hawaii has the
6 longest mandatory waiting period amongst all ten medical-aid-in-
7 dying authorized states and the District of Columbia. Many
8 patients are not surviving the mandatory twenty days between the
9 initial and second oral requests required for the prescription.

10 The purpose of this Act is to amend the Our Care, Our
11 Choice Act to:

- 12 (1) Authorize advanced practice registered nurses to
13 practice medical-aid-in-dying in accordance with their
14 scope of practice and prescribing authority;
- 15 (2) Authorize licensed advanced practice registered nurses
16 and clinical nurse specialists with psychiatric or
17 mental health training and licensed marriage and
18 family therapists, in addition to psychiatrists,
19 psychologists, and clinical social workers, to provide
20 counseling to a qualified patient;



- 1 (3) Reduce from twenty to five days, the mandatory waiting
2 period between the two oral requests required for a
3 qualified patient to obtain a prescription for
4 medication that may be self-administered to end the
5 patient's life in accordance with applicable state
6 law; and
- 7 (4) Waive the mandatory waiting period for terminally ill
8 qualified patients who are not expected to survive the
9 mandatory waiting period.

10 SECTION 2. Section 327L-1, Hawaii Revised Statutes, is
11 amended as follows:

12 1. By adding a new definition to be appropriately inserted
13 and to read:

14 "Advanced practice registered nurse" means a registered
15 nurse licensed to practice in the State who has met the
16 qualifications of chapter 457 and who, because of advanced
17 education and specialized clinical training, is authorized to
18 assess, screen, diagnose, order, utilize, or perform medical,
19 therapeutic, preventive, or corrective measures, including
20 prescribing medication."



1 2. By amending the definition of "attending provider" to
2 read:

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

7 3. By amending the definitions of "consulting provider"
8 and "counseling" to read:

9 ""Consulting provider" means a physician licensed pursuant
10 to chapter 453 who is qualified by specialty or experience to
11 make a professional diagnosis and prognosis regarding the
12 patient's disease[-] or advanced practice registered nurse
13 licensed pursuant to chapter 457 who is qualified by specialty
14 or experience to diagnose and prescribe medication.

15 "Counseling" means one or more consultations, which may be
16 provided through telehealth, as necessary between a psychiatrist
17 licensed under chapter 453, psychologist licensed under chapter
18 465, [e] clinical social worker licensed pursuant to chapter
19 467E, advanced practice registered nurse or clinical nurse
20 specialist licensed under chapter 457 with psychiatric or mental
21 health training, or marriage and family therapist licensed



1 pursuant to chapter 451J, and a patient for the purpose of
2 determining that the patient is capable, and that the patient
3 does not appear to be suffering from undertreatment or
4 nontreatment of depression or other conditions [~~which~~] that may
5 interfere with the patient's ability to make an informed
6 decision pursuant to this chapter."

7 SECTION 3. Section 327L-2, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~{}~~§327L-2~~{}~~ Oral and written requests for medication;
10 initiated. [~~An~~] Except as otherwise provided in section
11 327L-11(c), an adult who is capable, is a resident of the State,
12 and has been determined by an attending provider and a
13 consulting provider to be suffering from a terminal disease, and
14 who has voluntarily expressed the adult's wish to die, may,
15 pursuant to section 327L-9, submit:

16 (1) Two oral requests, a minimum of [~~twenty~~] five days
17 apart; and

18 (2) One written request,
19 for a prescription for medication that may be self-administered
20 for the purpose of ending the adult's life in accordance with
21 this chapter. The attending provider shall directly, and not



1 through a designee, receive all three requests required pursuant
2 to this section."

3 SECTION 4. Section 327L-9, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[f]~~ §327L-9~~[f]~~ **Written and oral requests.** ~~[Tø]~~ Except as
6 otherwise provided in section 327L-11(c), to receive a
7 prescription for medication that a qualified patient may self-
8 administer to end the qualified patient's life pursuant to this
9 chapter, a qualified patient shall have made an oral request and
10 a written request, and reiterate the oral request to the
11 qualified patient's attending provider ~~[not]~~ no less than
12 ~~[twenty]~~ five days after making the initial oral request. At
13 the time the qualified patient makes the second oral request,
14 the attending provider shall offer the qualified patient an
15 opportunity to rescind the request."

16 SECTION 5. Section 327L-11, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "~~[f]~~ §327L-11~~[f]~~ **Waiting periods.** ~~[Not]~~ (a) Except as
19 otherwise provided in subsection (c), no less than ~~[twenty]~~ five
20 days shall elapse between the qualified patient's initial oral
21 request for a prescription for medication pursuant to sections



1 327L-2 and 327L-9, and the taking of steps to make available a
2 prescription pursuant to section 327L-4(a)(12). [~~Not~~]

3 (b) No less than forty-eight hours shall elapse between
4 the qualified patient's written request for a prescription for
5 medication pursuant to sections 327L-2 and 327L-9, and the
6 taking of steps to make available a prescription pursuant to
7 section 327L-4(a)(12).

8 (c) If the qualified patient's attending provider attests
9 that the qualified patient will, within a reasonable medical
10 judgment, die within five days after making the initial oral
11 request, the five-day waiting period shall be waived and the
12 qualified patient may reiterate the oral request to the
13 attending provider at any time after making the initial oral
14 request."

15 SECTION 6. Section 327L-19, Hawaii Revised Statutes, is
16 amended by amending subsection (e) to read as follows:

17 "(e) For the purposes of this section:

18 "Notify" means to deliver a separate statement in writing
19 to a health care provider specifically informing the health care
20 provider [~~prior to~~] before the health care provider's
21 participation in actions covered by this chapter of the health



1 care facility's policy regarding participation in actions
2 covered by this chapter.

3 [~~"Partieipate]~~ "Participation in actions covered by this
4 chapter" means [~~to perform]~~ the performance of duties of an
5 attending provider pursuant to section 327L-4, the consulting
6 provider function pursuant to section 327L-5, or the counseling
7 referral function or counseling pursuant to section 327L-6.

8 [~~The term]~~ "Participation in actions covered by this chapter"
9 does not include:

- 10 (1) Making an initial determination that a patient has a
11 terminal disease and informing the patient of the
12 medical prognosis;
- 13 (2) Providing information about this chapter to a patient
14 upon the request of the patient;
- 15 (3) Providing a patient, upon the request of the patient,
16 with a referral to another [~~physician,~~] health care
17 provider; or
- 18 (4) Entering into a contract with a patient as the
19 patient's attending provider, consulting provider, or
20 counselor to act outside of the course and scope of



1 the health care provider's capacity as an employee or
2 independent contractor of a health care facility."

3 SECTION 7. If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 8. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 9. This Act shall take effect upon its approval.



Report Title:

Kupuna Caucus; Our Care, Our Choice Act; Medical-Aid-In-Dying; Advanced Practice Registered Nurses; Clinical Nurse Specialists; Marriage and Family Therapists; Mandatory Waiting Period; Waiver

Description:

Authorizes advanced practice registered nurses to practice medical-aid-in-dying. Authorizes licensed advanced practice registered nurses and clinical nurse specialists with psychiatric or mental health training and licensed marriage and family therapists to provide counseling to a qualified patient. Reduces from twenty to five days, the mandatory waiting period between the two oral requests required for a qualified patient to obtain a prescription for medication. Waives the mandatory waiting period for terminally ill qualified patients who are not expected to survive the mandatory waiting period. (SD1)

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