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# 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 had access to the full range of end-  
4 of-life care options. For mentally capable, terminally ill  
5 individuals who wish to voluntarily request and receive a  
6 prescription medication that would allow those individuals to  
7 die in a peaceful, humane, and dignified manner, the law allows  
8 these individuals to face significant challenges accessing the  
9 care they want and need.

10           The legislature further finds that due in part to Hawaii's  
11 geography, the State's supply of physicians is at its lowest  
12 since 2015, creating barriers to access for qualified terminally  
13 ill individuals. Furthermore, published evidence from other  
14 authorized states without these unique challenges demonstrate  
15 that even with access to a supportive healthcare facility and  
16 providers, a high percentage of terminally ill individuals,  
17 upwards of thirty per cent, die while waiting to complete the



1 regulatory requirements to qualify for medication under the  
2 respective state act. The anecdotal experience of patients and  
3 providers in Hawaii demonstrates the same results as those other  
4 states.

5 Hawaii is one of twenty-two states that grant advanced  
6 practice registered nurses authority to independently carry out  
7 all medical acts consistent with their education and training,  
8 including prescribing all forms of medication. However, the Our  
9 Care, Our Choice Act currently limits the scope of practice for  
10 advanced practice registered nurses; advanced practice  
11 registered nurses do not have the authority at this time to  
12 support terminally ill patients who want the option of medical  
13 aid in dying by acting as an attending or consulting provider,  
14 further limiting the number of qualified medical providers who  
15 may participate.

16 The purpose of this Act is to amend the Our Care, Our  
17 Choice Act to:

18 (1) Explicitly authorize advanced practice registered  
19 nurses, in addition to physicians, to practice medical  
20 aid in dying in accordance with their scope of  
21 practice and prescribing authority; and



1           (2) Reduce the mandatory waiting period between oral  
2           requests made by a terminally ill individual and  
3           create an expedited pathway for those terminally ill  
4           individuals not expected to survive the mandatory  
5           waiting period.

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

8           1. By adding a new definition to be appropriately  
9 inserted and to read:

10           "Advanced practice registered nurse" means a registered  
11 nurse who:

- 12           (1) Is licensed to practice in the State;
- 13           (2) Has met the qualifications set forth in chapter 457;
- 14           (3) Has been granted prescriptive authority pursuant to  
15           section 457-8.6; and
- 16           (4) Has obtained a registration under section 329-32."

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

19           "Attending provider" means a physician licensed pursuant  
20 to chapter 453 or an advanced practice registered nurse licensed



1 pursuant to chapter 457 who has responsibility for the care of  
2 the patient and treatment of the patient's terminal disease."

3 3. By amending the definition of "consulting provider" to  
4 read:

5 "Consulting provider" means a physician licensed pursuant  
6 to chapter 453 or an advanced practice registered nurse licensed  
7 pursuant to chapter 457 who is qualified by specialty or  
8 experience to make a professional diagnosis and prognosis  
9 regarding the patient's disease."

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

12 "[+]§327L-2[+] Oral and written requests for medication;  
13 initiated. An adult who is capable, is a resident of the State,  
14 and has been determined by an attending provider and consulting  
15 provider to be suffering from a terminal disease, and who has  
16 voluntarily expressed the adult's wish to die, may, pursuant to  
17 section 327L-9, submit:

- 18 (1) Two oral requests, a minimum of [~~twenty~~] fifteen days  
19 apart; and  
20 (2) One written request,



1 for a prescription that may be self-administered for the purpose  
2 of ending the adult's life in accordance with this chapter. The  
3 attending provider shall directly, and not through a designee,  
4 receive all three requests required pursuant to this section."

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

7 "[+]§327L-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 pursuant to this  
10 chapter, a qualified patient shall have made an oral request and  
11 a written request, and reiterate the oral request to the  
12 qualified patient's attending provider not less than [~~twenty~~  
13 fifteen days after making the initial oral request. At the time  
14 the qualified patient makes the second oral request, the  
15 attending provider shall offer the qualified patient an  
16 opportunity to rescind the request."

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

19 "[+]§327L-11[+] **Waiting periods.** (a) Not less than  
20 [~~twenty~~ fifteen days shall elapse between the qualified



1 patient's initial oral request and the taking of steps to make  
2 available a prescription pursuant to section 327L-4(a)(12).

3 (b) Not less than forty-eight hours shall elapse between  
4 the qualified patient's written request and the taking of steps  
5 to make available a prescription pursuant to section 327L-  
6 4(a)(12).

7 (c) Notwithstanding subsection (a) or (b), if the  
8 qualified patient's attending provider attests that the  
9 qualified patient will, within reasonable medical judgment, die  
10 within fifteen days after making the initial oral request under  
11 this section, the qualified patient may reiterate the oral  
12 request to the attending provider at any time after making the  
13 initial oral request and the waiting period shall be waived."

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

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

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



1 policy regarding participation in actions covered by this  
2 chapter.

3 "Participate in actions covered by this chapter" means to  
4 perform the duties of an attending provider pursuant to section  
5 327L-4, the consulting provider function pursuant to section  
6 327L-5, or the counseling referral function or counseling  
7 pursuant to section 327L-6. The term does not include:

8 (1) Making an initial determination that a patient has a  
9 terminal disease and informing the patient of the  
10 medical prognosis;

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

13 (3) Providing a patient, upon the request of the patient,  
14 with a referral to another [~~physician,~~] provider; or

15 (4) Entering into a contract with a patient as the  
16 patient's attending provider, consulting provider, or  
17 counselor to act outside of the course and scope of  
18 the health care provider's capacity as an employee or  
19 independent contractor of a health care facility."



# H.B. NO. 2451

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

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

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

12 SECTION 10. This Act shall take effect upon its approval.  
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JAN 22 2020



# H.B. NO. 2451

**Report Title:**

Our Care, Our Choice Act; Advanced Practice Registered Nurses;  
Mandatory Waiting Period; Waiver

**Description:**

Explicitly authorizes advanced practice registered nurses, in addition to physicians, to practice medical aid in dying in accordance with their scope of practice and prescribing authority. Reduces the mandatory waiting period between oral requests made by a terminally ill individual to fifteen days. Allows the attending provider to waive the waiting period for terminally ill individuals not expected to survive the mandatory waiting period.

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

