
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. Under the Act, mentally capable,
5 qualified terminally ill individuals may voluntarily request and
6 receive a prescription medication that would allow those
7 individuals to die in a peaceful, humane, and dignified manner.
8 However, under the current law, these individuals face
9 significant challenges accessing the 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 additional barriers to access for qualified
13 terminally ill individuals. Furthermore, published evidence
14 from other authorized states without these unique challenges
15 demonstrates that even with access to a supportive health care
16 facility and providers, a high percentage of terminally ill
17 individuals, upwards of thirty per cent, die while waiting to



1 complete the regulatory requirements needed to qualify for
2 medication under the respective state's act. The anecdotal
3 experience of patients and providers in Hawaii demonstrates
4 these same results.

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

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

18 (1) Explicitly recognize advanced practice registered
19 nurses as attending providers and consulting providers
20 capable of performing all necessary duties under the



- 1 Our Care, Our Choice Act in accordance with their
2 scope of practice and prescribing authority;
- 3 (2) Reduce the mandatory waiting period between oral
4 requests made by a terminally ill individual from
5 twenty to fifteen days; and
- 6 (3) Reduce the mandatory waiting period between oral
7 requests made by a terminally ill individual and
8 create an expedited pathway for those terminally ill
9 individuals not expected to survive the mandatory
10 waiting period.

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

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

15 "Advanced practice registered nurse" means a registered
16 nurse who:

- 17 (1) Is licensed to practice in the State;
18 (2) Has met the qualifications set forth in chapter 457;
19 (3) Has been granted prescriptive authority pursuant to
20 section 457-8.6; and
21 (4) Has obtained a registration under section 329-32."



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 an 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 definition of "consulting provider" to
8 read:

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

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

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



1 (1) Two oral requests, a minimum of [~~twenty~~] fifteen days
2 apart; and
3 (2) One written request,
4 for a prescription that may be self-administered for the purpose
5 of ending the adult's life in accordance with this chapter. The
6 attending provider shall directly, and not through a designee,
7 receive all three requests required pursuant to this section."

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

10 "~~[§]~~ **§327L-9** ~~[§]~~ **Written and oral requests.** To receive a
11 prescription for medication that a qualified patient may self-
12 administer to end the qualified patient's life pursuant to this
13 chapter, a qualified patient shall have made an oral request and
14 a written request, and reiterate the oral request to the
15 qualified patient's attending provider not less than [~~twenty~~]
16 fifteen days after making the initial oral request. At the time
17 the qualified patient makes the second oral request, the
18 attending provider shall offer the qualified patient an
19 opportunity to rescind the request."

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



1 " ~~[f]~~ §327L-11 ~~[f]~~ **Waiting periods.** (a) Not less than
2 ~~[twenty]~~ fifteen days shall elapse between the qualified
3 patient's initial oral request and the taking of steps to make
4 available a prescription pursuant to section 327L-4(a)(12).

5 (b) Not less than forty-eight hours shall elapse between
6 the qualified patient's written request and the taking of steps
7 to make available a prescription pursuant to section 327L-
8 4(a)(12).

9 (c) Notwithstanding subsection (a) or (b), if the
10 qualified patient's attending provider attests that the
11 qualified patient will, within reasonable medical judgment, die
12 within fifteen days after making the initial oral request
13 pursuant to this section and section 327L-9, the qualified
14 patient may reiterate the oral request to the attending provider
15 at any time after making the initial oral request and the
16 waiting period under this section shall be waived."

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

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

20 "Notify" means to deliver a separate statement in writing
21 to a health care provider specifically informing the health care



1 provider prior to the health care provider's participation in
2 actions covered by this chapter of the health care facility's
3 policy regarding participation in actions covered by this
4 chapter.

5 "Participate in actions covered by this chapter" means to
6 perform the duties of an attending provider pursuant to section
7 327L-4, the consulting provider function pursuant to section
8 327L-5, or the counseling referral function or counseling
9 pursuant to section 327L-6. The term 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,~~] provider; or
- 17 (4) Entering into a contract with a patient as the
18 patient's attending provider, consulting provider, or
19 counselor to act outside of the course and scope of
20 the health care provider's capacity as an employee or
21 independent contractor of a health care facility."



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 on July 1, 2050.



Report Title:

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

Description:

Explicitly recognizes advanced practice registered nurses as attending providers and consulting providers capable of performing all necessary duties under the Our Care, Our Choice Act in accordance with their scope of practice and prescribing authority. Reduces the mandatory waiting period between oral requests made by a terminally ill individual from twenty to fifteen days. Allows an attending provider to waive the waiting period for terminally ill individuals not expected to survive the mandatory waiting period. Effective 7/1/2050. (HD1)

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

