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# A BILL FOR AN ACT

RELATING TO DEATH WITH DIGNITY.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4 "CHAPTER

5 DEATH WITH DIGNITY

6 PART I. GENERAL PROVISIONS

7 § -1 Definitions. As used in this chapter, unless the  
8 context clearly requires otherwise:

9 "Adult" means an individual who is eighteen years of age or  
10 older.

11 "Alternate physician" means a physician who assumes the  
12 responsibilities relinquished by an attending physician who  
13 declines or is unable to fulfill the responsibilities of an  
14 attending physician as required under section -31(a).

15 "Attending physician" means the physician who has primary  
16 responsibility for the care of a patient and treatment of the  
17 patient's terminal disease.

18 "Capable" means that, in the opinion of:



1           (1) A court; or  
2           (2) The patient's attending physician or consulting  
3           physician, psychiatrist, or psychologist,  
4 a patient has the ability to make and communicate health care  
5 decisions to health care providers, including communication  
6 through persons familiar with the patient's manner of  
7 communicating if those persons are available.

8           "Consulting physician" means a physician who is qualified  
9 by specialty or experience to make a professional diagnosis and  
10 prognosis regarding the patient's disease.

11          "Counseling" means one or more consultations as necessary  
12 between a state licensed psychiatrist or psychologist and a  
13 patient for the purpose of determining that the patient is  
14 capable and not suffering from a psychiatric or psychological  
15 disorder causing impaired judgment.

16          "Department" means the department of health.

17          "Health care facility" means:

18          (1) A hospital with an organized medical staff, with  
19               permanent facilities that include inpatient beds, and  
20               with medical services, including physician services  
21               and continuous nursing services under the supervision  
22               of registered nurses, to provide diagnosis and medical



1 or surgical treatment primarily for acutely ill  
2 patients and accident victims, or to provide treatment  
3 for the mentally ill or to provide treatment in  
4 special inpatient care facilities. For purposes of  
5 this definition, a "special inpatient care facility"  
6 is a facility with permanent inpatient beds and other  
7 facilities designed and used for special health care  
8 purposes, including: rehabilitation centers, college  
9 infirmaries, chiropractic facilities, facilities for  
10 the treatment of alcoholism or drug abuse, or  
11 inpatient care facilities, and any other establishment  
12 falling within a classification established by the  
13 department, after determination of the need for that  
14 classification and the level and kind of health care  
15 appropriate for that classification; or

- 16 (2) A long-term care facility with permanent facilities  
17 that include inpatient beds, providing medical  
18 services, including nursing services but excluding  
19 surgical procedures except as may be permitted by the  
20 rules of the department, to provide treatment for two  
21 or more unrelated patients. The term "long-term care  
22 facility" includes:



1 (A) A skilled nursing facility, whether an  
2 institution or a distinct part of an institution,  
3 that is primarily engaged in providing to  
4 inpatients skilled nursing care and related  
5 services for patients who require medical or  
6 nursing care or rehabilitation services for the  
7 rehabilitation of injured, disabled, or sick  
8 persons; or

9 (B) An intermediate care facility that provides, on a  
10 regular basis, health-related care and services  
11 to individuals who do not require the degree of  
12 care and treatment that a hospital or skilled  
13 nursing facility is designed to provide, but who,  
14 because of their mental or physical condition,  
15 require care and services above the level of room  
16 and board that can be made available to them only  
17 through institutional facilities.

18 The term shall not be construed to include home health agencies,  
19 residential facilities, hospice programs, and homes.

20 "Health care provider" means a person licensed, certified,  
21 or otherwise authorized or permitted by the law of this State to  
22 administer health care or dispense medication in the ordinary



1 course of business or practice of a profession and includes a  
2 health care facility.

3 "Informed decision" means a decision that is:

4 (1) Made by a qualified patient to request and obtain a  
5 prescription to end the patient's life in a humane and  
6 dignified manner;

7 (2) Based upon an appreciation of the relevant facts; and

8 (3) Made after being fully informed by the attending  
9 physician of:

10 (A) The qualified patient's medical diagnosis;

11 (B) The qualified patient's prognosis;

12 (C) The potential risks associated with taking the  
13 medication to be prescribed;

14 (D) The probable result of taking the medication to  
15 be prescribed; and

16 (E) The feasible alternatives, including comfort  
17 care, hospice care, and pain control.

18 "Medically confirmed" means the medical opinion of the  
19 attending physician has been confirmed by a consulting physician  
20 who has examined the patient and the patient's relevant medical  
21 records.



1 "Patient" means a person who is under the care of a  
2 physician.

3 "Physician" means a doctor of medicine or osteopathy  
4 licensed to practice medicine by the Hawaii medical board  
5 pursuant to chapter 453.

6 "Qualified patient" means a capable adult who is a resident  
7 of Hawaii and has satisfied the requirements of this chapter in  
8 order to obtain a prescription for medication to end the  
9 patient's life in a humane and dignified manner.

10 "Terminal disease" means an incurable and irreversible  
11 disease that has been medically confirmed and will, within  
12 reasonable medical judgment, result in the patient's death  
13 within six months.

14 § -2 Severability. Any section of this chapter that is  
15 held invalid as to any person or circumstance shall not affect  
16 the application of any other section of this chapter that can be  
17 given full effect without the invalid section or application.

18 PART II. WRITTEN REQUEST FOR MEDICATION

19 § -21 Who may initiate a written request for medication.

20 (a) An adult who is capable, is a resident of Hawaii, and has  
21 been determined by the attending physician or alternate  
22 physician and consulting physician to be suffering from a



1 terminal disease, and who has voluntarily expressed that  
2 person's wish to die, may make a written request for medication  
3 for the purpose of ending that person's life in a humane and  
4 dignified manner in accordance with this chapter.

5 (b) No person shall qualify under this chapter solely  
6 because of age or disability.

7 § -22 Form of the written request. (a) A valid request  
8 for medication under this chapter shall be in substantially the  
9 form described in section -61, signed and dated by the  
10 qualified patient and witnessed by at least two individuals who,  
11 in the presence of the qualified patient, attest that to the  
12 best of their knowledge and belief the qualified patient is  
13 capable, acting voluntarily, and is not being coerced to sign  
14 the request.

15 (b) One of the witnesses shall be a person who is not any  
16 of the following:

- 17 (1) A relative of the qualified patient by blood,  
18 marriage, or adoption;
- 19 (2) A person who, at the time the request is signed, would  
20 be entitled to any portion of the estate of the  
21 qualified patient upon death under any will or by  
22 operation of law; or



1 (3) An owner, operator, or employee of a health care  
2 facility where the qualified patient is receiving  
3 medical treatment or is a resident.

4 (c) The patient's attending physician or alternate  
5 physician at the time the request is signed shall not be a  
6 witness.

7 (d) If the qualified patient is in a long-term care  
8 facility at the time the written request is made, a third  
9 witness shall be required in addition to the two witnesses  
10 described in subsection (a). The third witness shall be an  
11 individual designated by the facility and shall have the  
12 qualifications specified by the department by rule.

13 PART III. SAFEGUARDS

14 § -31 Attending physician responsibilities; alternate  
15 physician. (a) The attending physician shall:

16 (1) Make the initial determination of whether a patient  
17 has a terminal disease, is capable, and has made the  
18 request voluntarily;

19 (2) Request that the patient demonstrate Hawaii residency  
20 pursuant to section -40;

21 (3) To ensure that the patient is making an informed  
22 decision, inform the patient of:





- 1           (A) The patient's medical diagnosis;
- 2           (B) The patient's prognosis;
- 3           (C) The potential risks associated with taking the
- 4                 medication to be prescribed;
- 5           (D) The probable result of taking the medication to
- 6                 be prescribed; and
- 7           (E) The feasible alternatives, including comfort
- 8                 care, hospice care, and pain control;
- 9           (4) Refer the patient to a consulting physician for
- 10                 medical confirmation of the diagnosis and
- 11                 determination that the patient is capable and acting
- 12                 voluntarily;
- 13           (5) Refer the patient for counseling if appropriate
- 14                 pursuant to section         -33;
- 15           (6) Recommend that the patient notify next of kin;
- 16           (7) Counsel the patient about the importance of having
- 17                 another person present when the patient takes the
- 18                 medication prescribed pursuant to this chapter and of
- 19                 not taking the medication in a public place;
- 20           (8) Inform the patient that the patient may rescind the
- 21                 request, at any time and in any manner, and offer the
- 22                 patient an opportunity, pursuant to section         -36,



- 1           to rescind at the end of the fifteen-day waiting  
2           period;
- 3           (9)   Verify, immediately prior to writing the prescription  
4           for medication under this chapter, that the patient is  
5           making an informed decision;
- 6           (10)   Fulfill the medical record documentation requirements  
7           of section     -39;
- 8           (11)   Ensure that all appropriate steps are carried out in  
9           accordance with this chapter prior to writing a  
10          prescription for medication to enable a qualified  
11          patient to end the patient's life in a humane and  
12          dignified manner; and
- 13          (12) (A)   Dispense medications directly, including  
14                ancillary medications; intended to facilitate the  
15                desired effect, to minimize the qualified  
16                patient's discomfort; provided the attending  
17                physician is registered as a dispensing physician  
18                with the Hawaii medical board, has a current Drug  
19                Enforcement Administration certificate, and  
20                complies with any applicable administrative rule;  
21                or  
22          (B)   With the patient's written consent:



- 1                   (i)    Contact a pharmacist and inform the
- 2                                    pharmacist of the prescription; and
- 3                   (ii)   Deliver the written prescription personally
- 4                                    or by mail to the pharmacist, who shall
- 5                                    dispense the medications either to the
- 6                                    qualified patient, the attending physician,
- 7                                    or an expressly identified agent of the
- 8                                    patient.

9           (b)   Notwithstanding any other provision of law, the  
10   attending physician may sign the qualified patient's death  
11   certificate.

12           (c)   If at any time an attending physician declines or is  
13   unable to fulfill any of the responsibilities detailed in  
14   subsection (a), particularly subsection (a)(12) regarding  
15   dispensing medication to a patient, the attending physician  
16   shall relinquish the responsibilities to an alternate physician  
17   who is willing and able to fulfill the responsibilities detailed  
18   in subsection (a). The alternate physician shall confirm with  
19   the attending physician or the consulting physician that the  
20   diagnosis has not changed and that the patient is capable, is  
21   acting voluntarily, has made an informed decision, and remains a  
22   qualified patient under this chapter. The alternate physician



1 may not dispense medication to the qualified patient under  
2 subsection (a)(12) until at least fifteen days after the  
3 alternate physician's initial consultation with the patient.

4       §   -32 Consulting physician confirmation. Before a  
5 patient is deemed qualified under this chapter, the consulting  
6 physician shall examine the patient and the patient's relevant  
7 medical records and confirm in writing the attending physician's  
8 diagnosis that the patient is suffering from a terminal disease  
9 and shall verify that the patient is capable, is acting  
10 voluntarily, and has made an informed decision. If necessary,  
11 the consulting physician shall also confirm with the alternate  
12 physician, pursuant to section   -31(c), that the diagnosis has  
13 not changed and that the patient is capable, is acting  
14 voluntarily, has made an informed decision, and remains a  
15 qualified patient under this chapter.

16       §   -33 Counseling referral. If, in the opinion of the  
17 attending physician, the alternate physician, or the consulting  
18 physician, a patient may be suffering from a psychiatric or  
19 psychological disorder causing impaired judgment, any one of the  
20 physicians shall refer the patient for counseling. No  
21 medication to end a patient's life in a humane and dignified  
22 manner shall be prescribed until the person performing the



1 counseling determines that the patient is not suffering from a  
2 psychiatric or psychological disorder causing impaired judgment.

3       §   -34 Informed decision. No person shall receive a  
4 prescription for medication to end a patient's life in a humane  
5 and dignified manner unless the patient has made an informed  
6 decision. Immediately prior to writing a prescription for  
7 medication under this chapter, the attending or alternate  
8 physician shall verify that the qualified patient is making an  
9 informed decision.

10       §   -35 Family notification. The attending or alternate  
11 physician shall recommend that the qualified patient notify the  
12 next of kin of the qualified patient's request for medication  
13 pursuant to this chapter. A qualified patient's request shall  
14 not be denied because the qualified patient declines or is  
15 unable to notify next of kin.

16       §   -36 Written and oral requests. To receive a  
17 prescription for medication to end a qualified patient's life in  
18 a humane and dignified manner, a qualified patient shall make an  
19 oral request and a written request and shall reiterate the oral  
20 request to the qualified patient's attending or alternate  
21 physician no less than fifteen days after making the initial  
22 oral request. At the time the qualified patient makes a second



1 oral request, the attending or alternate physician shall offer  
2 the qualified patient an opportunity to rescind the request.

3       § -37 Right to rescind request. A qualified patient may  
4 rescind a request for medication pursuant to this chapter at any  
5 time and in any manner without regard to the qualified patient's  
6 mental state. No prescription for medication under this chapter  
7 may be written without the attending or alternate physician  
8 offering the qualified patient an opportunity to rescind the  
9 request.

10       § -38 Waiting periods. No less than fifteen days shall  
11 elapse between the qualified patient's initial oral request and  
12 the writing of a prescription under this chapter. No less than  
13 forty-eight hours shall elapse between the patient's written  
14 request and the writing of a prescription under this chapter.

15       § -39 Medical record documentation requirements. The  
16 following shall be documented or filed in a qualified patient's  
17 medical record:

18       (1) All oral requests by the qualified patient for  
19 medication to end the qualified patient's life in a  
20 humane and dignified manner;



- 1           (2) All written requests by a qualified patient for  
2           medication to end the qualified patient's life in a  
3           humane and dignified manner;
- 4           (3) The attending physician's diagnosis, prognosis, and  
5           determination that the patient is capable, acting  
6           voluntarily, and has made an informed decision and, if  
7           necessary, the alternate physician's confirmation that  
8           the diagnosis has not changed and that the patient is  
9           capable, is acting voluntarily, has made an informed  
10          decision, and remains a qualified patient under this  
11          chapter;
- 12          (4) The consulting physician's diagnosis, prognosis, and  
13          verification that the patient is capable, acting  
14          voluntarily, and has made an informed decision;
- 15          (5) A report of the outcome and determinations made during  
16          counseling, if applicable;
- 17          (6) The attending or alternate physician's offer to the  
18          qualified patient to rescind the qualified patient's  
19          request at the time of the qualified patient's second  
20          oral request pursuant to section       -36;
- 21          (7) A note by the attending or alternate physician  
22          indicating that all requirements under this chapter



1           have been met and indicating the steps taken to carry  
2           out the request, including a notation of the  
3           medication prescribed; and

4           (8) A completed form reporting the event, to be completed  
5           by a monitor who is required to be present at the  
6           event pursuant to section     -41.

7           §   -40   **Residency requirement.** Only requests made by  
8   Hawaii residents who have been domiciled or physically present  
9   in the State for a continuous period of at least six months  
10  prior to the time the initial oral request for medication to end  
11  the patient's life is made under this chapter shall be granted.  
12  Factors establishing Hawaii residency include:

- 13           (1) Possession of a Hawaii driver's license;
- 14           (2) Registration to vote in Hawaii;
- 15           (3) Evidence that the person owns or leases property in  
16           Hawaii;
- 17           (4) Filing of a Hawaii tax return for the most recent tax  
18           year; or
- 19           (5) Any other documentation that establishes legal  
20           residency in the State.

21           §   -41   **Monitor required; form.** (a) A qualified patient  
22  shall designate a competent adult to act as a monitor and who





1 shall be present at the time of actual administration of the  
2 medication to the qualified patient and shall witness the event.  
3 The monitor shall have the power to act on behalf of the  
4 qualified patient to:

- 5 (1) Stop the administration of the medication if it has  
6 not yet been carried out; or
- 7 (2) Enlist medical assistance to attempt to reverse the  
8 effect of the medication if the medication has already  
9 been delivered,

10 if the monitor has reason to believe that the qualified patient  
11 has had a change of mind and is not able to effectively express  
12 or communicate the wish not to proceed taking the medication.

13 (b) The department of health shall develop a form for a  
14 monitor to complete upon witnessing and participating in the  
15 event described under this section.

16 § -42 Department requirements. (a) The department  
17 shall annually review a sample of records maintained pursuant to  
18 this chapter and shall require any health care provider upon  
19 dispensing medication pursuant to this chapter to file a copy of  
20 the dispensing record with the department.

21 (b) The department shall adopt rules pursuant to chapter  
22 91 to facilitate the collection of information regarding



1 compliance with this chapter. Except as otherwise required by  
2 law, the information collected shall not be a government record  
3 under chapter 92F and may not be made available for inspection  
4 by the public.

5 (c) The department shall generate and make available to  
6 the public an annual statistical report of information collected  
7 under subsection (b).

8 (d) Upon the filing of a death certificate under section  
9 338-9 of any qualified patient under this chapter, the  
10 department shall designate the cause of death as the underlying  
11 terminal disease or diseases as diagnosed under section

12 -31(a)(1).

13 § -43 Effect on construction of wills, contracts, and  
14 other agreements. (a) No provision in a contract, will, or  
15 other agreement, whether written or oral, to the extent the  
16 provision would affect whether a person may make or rescind a  
17 request for medication to end the person's life in a humane and  
18 dignified manner, shall be valid.

19 (b) No obligation owing under any currently existing  
20 contract shall be conditioned or affected by the making or  
21 rescinding of a request, by a person who is a qualified patient,



1 for medication to end the person's life in a humane and  
2 dignified manner.

3 § -44 Insurance or annuity policies. The sale,  
4 procurement, or issuance of any life, health, or accident  
5 insurance or annuity policy or the rate charged for any policy  
6 in this State shall not be conditioned upon or affected by the  
7 making or rescinding of a request, by a person who is a  
8 qualified patient, for medication to end the person's life in a  
9 humane and dignified manner. A qualified patient's act of  
10 ingesting medication to end the patient's life in a humane and  
11 dignified manner shall not have an effect upon any life, health,  
12 or accident insurance or annuity policy issued in this State,  
13 nor be construed as a suicide for purposes of any life, health,  
14 or accident insurance or annuity policy issued in this State for  
15 purposes of section 431:10D-108(b)(5).

16 § -45 Construction of chapter. Nothing in this chapter  
17 shall be construed to authorize a physician or any other person  
18 to end a patient's life by lethal injection, mercy killing, or  
19 active euthanasia. Actions taken in accordance with this  
20 chapter shall not, for any purpose, constitute suicide, assisted  
21 suicide, mercy killing, or homicide under the law.

22 PART IV. IMMUNITIES AND LIABILITIES



1           §   -51 Immunities; basis for prohibiting health care  
2 provider or monitor from participation; notification;  
3 permissible sanctions. (a) Except as provided in section  
4       -52:

- 5           (1) No person shall be subject to civil or criminal  
6 liability or professional disciplinary action for  
7 participating in actions taken in good faith  
8 compliance with this chapter. This includes being  
9 present when a qualified patient takes the prescribed  
10 medication to end the qualified patient's life in a  
11 humane and dignified manner;
- 12           (2) No professional organization or association, or health  
13 care provider, may subject a person to censure,  
14 discipline, suspension, loss of license, loss of  
15 privileges, loss of membership, or other penalty for  
16 participating or refusing to participate in good faith  
17 compliance with this chapter;
- 18           (3) No request by a qualified patient for or provision by  
19 an attending or alternate physician of medication in  
20 good faith compliance with this chapter shall  
21 constitute neglect for any purpose of law or provide



1 the sole basis for the appointment of a guardian or  
2 conservator; and

3 (4) No health care provider shall be under any duty,  
4 whether by contract, statute, or any other legal  
5 requirement, to participate in the provision to a  
6 qualified patient of medication to end the qualified  
7 patient's life in a humane and dignified manner. If a  
8 health care provider is unable or unwilling to carry  
9 out a qualified patient's request under this chapter,  
10 and the qualified patient transfers the qualified  
11 patient's care to a new health care provider, the  
12 prior health care provider shall transfer, upon  
13 request, a copy of the qualified patient's relevant  
14 medical records to the new health care provider.

15 (b) Except as provided in section -52:

16 (1) Notwithstanding any other provision of law, a health  
17 care provider may prohibit another health care  
18 provider from participating in this chapter on the  
19 premises of the prohibiting provider if the  
20 prohibiting provider has notified the health care  
21 provider of the prohibiting provider's policy  
22 regarding participating in this chapter. Nothing in



1           this paragraph shall prevent a health care provider  
2           from providing health care services to a qualified  
3           patient that does not constitute participation in this  
4           chapter;

5           (2) Notwithstanding subsection (a), a health care provider  
6           may subject another health care provider to the  
7           sanctions stated in this paragraph if the sanctioning  
8           health care provider has notified the sanctioned  
9           provider prior to participation in this chapter that  
10          it prohibits participation in this chapter:

11          (A) Loss of privileges, loss of membership, or other  
12          sanction provided pursuant to the medical staff  
13          bylaws, policies, and procedures of the  
14          sanctioning health care provider if the  
15          sanctioned provider is a member of the  
16          sanctioning provider's medical staff and  
17          participates in this chapter while on the health  
18          care facility premises of the sanctioning health  
19          care provider, but not including the private  
20          medical office of a physician or other provider;

21          (B) Termination of lease or other property contract  
22          or other nonmonetary remedies provided by lease



1 contract, not including loss or restriction of  
2 medical staff privileges or exclusion from a  
3 provider panel, if the sanctioned provider  
4 participates in this chapter while on the  
5 premises of the sanctioning health care provider  
6 or on property that is owned by or under the  
7 direct control of the sanctioning health care  
8 provider; or

9 (C) Termination of contract or other nonmonetary  
10 remedies provided by contract if the sanctioned  
11 provider participates in this chapter while  
12 acting in the course and scope of the sanctioned  
13 provider's capacity as an employee or independent  
14 contractor of the sanctioning health care  
15 provider. Nothing in this subparagraph shall be  
16 construed to prevent:

17 (i) A health care provider from participating in  
18 this chapter while acting outside the course  
19 and scope of the provider's capacity as an  
20 employee or independent contractor; or

21 (ii) A qualified patient from contracting with  
22 the qualified patient's attending or



1           alternate physician and consulting physician  
2           to act outside the course and scope of the  
3           provider's capacity as an employee or  
4           independent contractor of the sanctioning  
5           health care provider; and

6           (3) A health care provider that imposes sanctions pursuant  
7           to paragraph (2) shall follow all due process and  
8           other procedures the sanctioning health care provider  
9           may have, including, at a minimum, reasonable notice  
10          and an opportunity for a hearing, that are related to  
11          the imposition of sanctions on another health care  
12          provider.

13          For the purposes of this subsection:

14          "Notify" means to make a separate statement in writing to  
15          the health care provider specifically informing the health care  
16          provider prior to the provider's participation in this chapter  
17          of the sanctioning health care provider's policy about  
18          participation in activities covered by this chapter.

19          "Participate in this chapter":

20          (1) Means to perform the duties of an attending or  
21          alternate physician pursuant to section       -31, the  
22          consulting physician function pursuant to section





1                   -32, the counseling function pursuant to section  
2                   -33, or the monitoring function pursuant to section  
3                   -41;

4           (2) Shall not include:

5                   (A) Making an initial determination that a patient  
6                   has a terminal disease and informing the patient  
7                   of the medical prognosis;

8                   (B) Providing information about this chapter to a  
9                   patient upon the request of the patient;

10                  (C) Providing a patient, upon the request of the  
11                  patient, with a referral to another physician; or

12                  (D) A qualified patient contracting with the  
13                  patient's attending or alternate physician and  
14                  consulting physician to act outside of the course  
15                  and scope of the provider's capacity as an  
16                  employee or independent contractor of the  
17                  sanctioning health care provider.

18           (c) Suspension or termination of staff membership or  
19 privileges under subsection (b) is not reportable or otherwise a  
20 basis for action under section 453-7.5 or 453-8. Action taken  
21 pursuant to section -31, -32, or -33 shall not be the



1 sole basis for a report or complaint of unprofessional or  
2 dishonorable conduct under section 453-7.5 or 453-8.

3 (d) No provision of this chapter shall be construed to  
4 allow a lower standard of care for patients in the community  
5 where the patient is treated or a similar community.

6 (e) Actions taken pursuant to this chapter shall not be  
7 grounds for revocation, limitation, suspension, or denial of  
8 licenses under section 453-8, so long as the health care  
9 provider has complied fully with this chapter.

10 § -52 Liabilities. (a) A person who, without  
11 authorization of the qualified patient, wilfully alters or  
12 forges a request for medication, or conceals or destroys a  
13 rescission of that request, with the intent or effect of causing  
14 the patient's death shall be guilty of a class A felony.

15 (b) Any person who coerces or exerts undue influence on a  
16 patient to request medication for the purpose of ending the  
17 patient's life, or to destroy a rescission of a request, shall  
18 be guilty of a class A felony.

19 (c) Nothing in this chapter limits further liability for  
20 civil damages resulting from other negligent conduct or  
21 intentional misconduct by any person.



1 (d) The penalties in this chapter shall not preclude  
2 criminal penalties applicable under any other law for conduct  
3 that is inconsistent with this chapter.

4 § -53 Claims by governmental entity for costs incurred.  
5 Any governmental entity that incurs costs resulting from a  
6 person terminating the person's life pursuant to this chapter in  
7 a public place shall have a claim against the estate of the  
8 person to recover costs and reasonable attorney fees related to  
9 enforcing the claim.

10 PART V. FORM OF THE REQUEST

11 § -61 Form of the request. A request for medication as  
12 authorized by this chapter shall be in substantially the  
13 following form:

14 REQUEST FOR MEDICATION

15 TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

16 I, \_\_\_\_\_, am an adult of sound mind. I am suffering  
17 from \_\_\_\_\_, which my attending or alternate physician  
18 has determined is a terminal disease that has been medically  
19 confirmed by a consulting physician. I have been fully informed  
20 of my diagnosis, prognosis, the nature of medication to be  
21 prescribed and potential associated risks, the expected result,



1 and the feasible alternatives, including comfort care, hospice  
2 care, and pain control.

3 I request that my attending or alternate physician prescribe  
4 medication that will end my life in a humane and dignified  
5 manner.

6 INITIAL ONE:

7 \_\_\_\_\_ I have informed my family of my decision and taken their  
8 opinions into consideration.

9 \_\_\_\_\_ I have decided not to inform my family of my decision.

10 \_\_\_\_\_ I have no family to inform of my decision.

11 I understand that I have the right to rescind this request at  
12 any time.

13 I understand the full import of this request and I expect to die  
14 when I take the medication to be prescribed. I further  
15 understand that, although most deaths occur within three hours,  
16 my death may take longer and my physician has counseled me about  
17 this possibility.

18 I make this request voluntarily and without reservation, and I  
19 accept full moral responsibility for my actions.

20 Signed: \_\_\_\_\_

21 Dated: \_\_\_\_\_



DECLARATION OF WITNESSES

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We declare that the person signing this request:

- (1) Is personally known to us or has provided proof of identity;
- (2) Signed this request in our presence;
- (3) Appears to be of sound mind and not under duress, fraud, or undue influence; and
- (4) Is not a patient for whom either of us is the attending or alternate physician.

\_\_\_\_\_ Witness 1/Date  
 \_\_\_\_\_ Witness 2/Date  
 \_\_\_\_\_ Witness 3/Date

NOTE: One witness shall not be a relative (by blood, marriage, or adoption) of the person signing this request, shall not be entitled to any portion of the person's estate upon death, and shall not own, operate, or be employed at a health care facility where the person is a patient or resident. If the patient is an inpatient at a health care facility, one of the witnesses shall be an individual designated by the facility. The form shall contain checkboxes to indicate the status of each witness with respect to these qualifications."

1 SECTION 2. Chapter 461, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§461- Compliance with death with dignity law.  
5 Notwithstanding any law to the contrary, nothing in this chapter  
6 shall be deemed to prohibit a registered pharmacist from  
7 dispensing medications to a qualified patient, the qualified  
8 patient's attending or alternate physician, or an expressly  
9 identified agent of the qualified patient for the purpose of  
10 ending the qualified patient's life in a humane and dignified  
11 manner, as provided in section -31(a)(12)(B)(ii)."

12 SECTION 3. Section 327E-13, Hawaii Revised Statutes, is  
13 amended by amending subsection (c) to read as follows:

14 "(c) This chapter shall not authorize mercy killing,  
15 assisted suicide, euthanasia, or the provision, withholding, or  
16 withdrawal of health care, to the extent prohibited by other  
17 statutes of this State[-]; provided that death with dignity  
18 under chapter shall not be affected by this section."

19 SECTION 4. Section 431:10D-108, Hawaii Revised Statutes,  
20 is amended by amending subsection (b) to read as follows:

21 "(b) No policy of life insurance shall be delivered or  
22 issued for delivery in this State if it contains a provision



1 ~~which~~ that excludes or restricts liability for death caused in  
2 a certain specified manner or occurring while the insured has a  
3 specified status, except that the policy may contain provisions  
4 excluding or restricting coverage as specified therein in event  
5 of death under any one or more of the following circumstances:

- 6 (1) Death as a result directly or indirectly of war,  
7 declared or undeclared, or of any act or hazard of  
8 such war;
- 9 (2) Death as a result of aviation under conditions  
10 specified in the policy;
- 11 (3) Death as a result of a specified hazardous occupation  
12 or occupations;
- 13 (4) Death while the insured is a resident outside of the  
14 United States and Canada; or
- 15 (5) Death within two years from the date of issue of the  
16 policy as a result of suicide, while sane or  
17 insane [-]; provided that death with dignity under  
18 chapter shall not be considered suicide for  
19 purposes of this section."

20 SECTION 5. This Act does not affect rights and duties that  
21 matured, penalties that were incurred, and proceedings that were  
22 begun, before its effective date.



1 SECTION 6. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect upon its approval.

4

INTRODUCED BY:

*[Signature]*

*Calvin S. ...*

*[Signature]*

*[Signature]*

*Guthrie ...*

*[Signature]*

*[Signature]*

*Karl ...*

*Barbara Mammoto*

*Linda Ichizama*

*Namined ...*

*[Signature]*

JAN 25 2011





**Report Title:**

Death With Dignity

**Description:**

Allows a terminally ill, competent adult to get lethal dose of medication to end life. Prohibits mercy killings, lethal injections, and active euthanasia. Requires informed consent. Allows alternate doctor to replace attending doctor if latter declines to prescribe. Requires monitor at time of taking dose.

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

