RELATING TO HEALTH.

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

SECTION 1. The legislature finds that at least thirty states have either enacted or considered enacting laws to allow mentally competent adult residents who have a terminal illness to voluntarily request and receive a prescription medication that would allow the person to die in a peaceful, humane, and dignified manner. Each of the states that have grappled with this issue has done their best to address the concerns of the impassioned voices on each side of the debate.

The legislature further finds that Hawaii patients who are terminally ill and mentally capable currently have limited options to end their suffering if the dying process becomes unbearable. Palliative care, VSED (voluntarily stopping eating and drinking), or stopping artificial ventilation or other life-sustaining therapy to advance the dying process are all options a dying individual can choose. However, physicians do not always offer these options to their patients, and more importantly, these options do not always result in a quick or
peaceful death. Advances in technology mean that the process of dying can be extended even when no cure or likelihood of successful medical intervention exists. This can often result in terminally ill patients undergoing unremitting pain, discomfort, and an irreversible reduction in their quality of life in their final days.

The legislature has closely examined this issue a number of times over the past two decades. Following this long period of evaluation and debate, the legislature believes that it is necessary and appropriate to give patients the ability to choose their own medical care while also ensuring there are robust safeguards in place to prevent any possible abuse. Therefore, the legislature believes that any legislation for patient choice must include all of the following protections for patients:

(1) Confirmation by two health care providers of the patient's diagnoses, prognosis, and medical competence, and the voluntariness of the patient's request;

(2) Two oral requests from the patient, separated by not less than fifteen days, and one signed written request
that is witnessed by two people, one of whom must be unrelated to the patient;

(3) An additional waiting period between the written request and the writing of the prescription; and

(4) The creation of strict criminal penalties for any person who:

(A) Tampers with a person's request for a prescription pursuant to this Act; or

(B) Coerces a person with a terminal illness to request a prescription.

In addition, the patient at all times should retain the right to rescind the request for medication and be under no obligation to fill the prescription or ingest the medication.

These rigorous safeguards would be the strongest of any state in the nation and will thoroughly protect patients and their loved ones from any potential abuse.

The legislature concludes that adult, terminally ill residents of the State should have the fundamental right to determine their own medical treatment as they near the end of life, including the right to choose to avoid an unnecessarily prolonged life of pain and suffering.
The purpose of this Act is to allow qualified patients in this State with a medically confirmed terminal illness with less than six months to live and complete mental capacity to determine their own medical care at the end of their lives.

SECTION 2. This Act shall be known and may be cited as the "Our Care, Our Choice Act".

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

"CHAPTER

OUR CARE, OUR CHOICE ACT

§ 1 Definitions. As used in this chapter:

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

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

"Capable" means that in the opinion of a court or in the opinion of the patient's attending provider or consulting provider, psychiatrist, or psychologist, a patient has the
ability to make and communicate health care decisions to health care providers.

"Consulting provider" means a physician licensed pursuant to chapter 453 who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient's disease, but who has not previously assumed responsibility for the care of the patient with the attending provider.

"Counseling" means one or more consultations as necessary between a state-licensed psychiatrist or psychologist and a patient for the purpose of determining that the patient is capable of making medical decisions and not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

"Department" means the department of health.

"Health care facility" shall have the same meaning as in section 323D-2.

"Health care provider" means a person licensed, certified, or otherwise authorized or permitted by the law of this State to administer health care or dispense medication in the ordinary
course of business or practice of a profession, and includes a health care facility.

"Informed decision" means a decision by a qualified patient to request and obtain a prescription to end the qualified patient's life pursuant to this chapter. The informed decision shall be based on an appreciation of the relevant facts and made after being fully informed by the attending provider of:

(1) The medical diagnosis;

(2) The prognosis;

(3) The potential risks associated with taking the medication to be prescribed;

(4) The probable result of taking the medication to be prescribed;

(5) The possibility that the individual may choose not to obtain the medication or may obtain the medication and may decide not to ingest it; and

(6) The feasible alternatives or additional treatment opportunities, including but not limited to comfort care, hospice care, and pain control.

"Medically confirmed" means the medical opinion of the attending provider has been confirmed by a consulting provider.
who has examined the patient and the patient's relevant medical
records.

"Patient" means a person who is under the care of a
attending provider.

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

"Prescription" means prescription medication that the
qualified patient may self-administer to end the qualified
patient's life pursuant to this chapter.

"Qualified patient" means a capable adult who is a resident
of the State and has satisfied the requirements of this chapter
in order to obtain a prescription for medication to end the
qualified patient's life pursuant to this chapter.

"Terminal disease" means an incurable and irreversible
disease that has been medically confirmed and will, within
reasonable medical judgment, produce death within six months.

"Terminal disease" does not include age or any physical
disability or condition that is not likely to, by itself, cause
death within six months.
§ -2 Written request for medication; initiated. An adult who is capable, is a resident of the State, and has been determined by an attending provider and consulting provider to be suffering from a terminal disease, and who has voluntarily expressed the adult's wish to die, may, pursuant to section 9, submit:

(1) Two oral requests, a minimum of fifteen days apart;

and

(2) One written request,

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

§ -3 Form of the written request. (a) A valid written request for a prescription under this chapter shall be substantially in the form described in section 23, and shall be signed and dated by the qualified patient and witnessed by at least two individuals who, in the presence of the qualified patient, attest that to the best of their knowledge and belief the qualified patient is of sound mind, acting voluntarily, and is not being coerced to sign the request.
(b) One of the witnesses shall be a person who is not:

(1) A relative of the qualified patient by blood, marriage, or adoption;

(2) A person who at the time the request is signed would be entitled to any portion of the estate of the qualified patient upon death under any will, trust, or other legal instrument, or by operation of law; or

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

(c) The qualified patient's attending provider at the time the request is signed shall not be a witness.

§ 4 Attending provider; duties. (a) The attending provider shall:

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

(2) Require that the patient demonstrate residency pursuant to section -13;

(3) To ensure that the patient is making an informed decision, inform the patient of:
(A) The medical diagnosis;
(B) The prognosis;
(C) The potential risks associated with taking the medication to be prescribed;
(D) The probable result of taking the medication to be prescribed;
(E) The possibility that the individual may choose not to obtain the medication or may obtain the medication but may decide not to ingest it; and
(F) The feasible alternatives or additional treatment opportunities, including but not limited to comfort care, hospice care, and pain control;

(4) Refer the patient to a consulting provider for medical confirmation of the diagnosis, and for a determination that the patient is capable and acting voluntarily;
(5) Refer the patient for counseling if appropriate;
(6) Recommend that the patient notify next of kin;
(7) Counsel the patient about the importance of having another person present when the qualified patient self-administers the prescription prescribed pursuant
to this chapter and of not self-administering the
prescription in a public place;

(8) Inform the patient that a qualified patient may
rescind the request at any time and in any manner, and
offer the qualified patient an opportunity to rescind
at the time of the qualified patient's second oral
request made pursuant to section -9;

(9) Verify, immediately prior to writing the prescription
for medication under this chapter, that the qualified
patient is making an informed decision;

(10) Fulfill the medical record documentation requirements
of section -12;

(11) Ensure that all appropriate steps are carried out in
accordance with this chapter prior to writing a
prescription for medication to enable a qualified
patient to end the qualified patient's life pursuant
to this chapter; and

(12) Either:

(A) Dispense medications directly, including
ancillary medications intended to facilitate the
desired effect to minimize the patient's
discomfort; provided that the attending provider
is authorized to dispense controlled substances
pursuant to chapter 329, has a current Drug
Enforcement Administration certificate, and
complies with any applicable administrative
rules; or

(B) With the qualified patient's written consent:

(i) Contact a pharmacist of the qualified
patient's choice and inform the pharmacist
of the prescription; and

(ii) Transmit the written prescription
personally, by mail, or electronically to
the pharmacist, who shall dispense the
medication to either the qualified patient,
the attending provider, or an expressly
identified agent of the qualified patient.

(b) Notwithstanding any other provision of law, an
attending provider may sign the qualified patient's death
certificate. The death certificate shall list the terminal
disease and self-administration of the medication prescribed
pursuant to this chapter as the immediate cause of death.
§ -5 Consulting provider; confirmation. Before a patient is qualified under this chapter, a consulting provider shall examine the patient and the patient's relevant medical records and confirm, in writing, the attending provider's diagnosis that the patient is suffering from a terminal disease, and verify that the patient is capable, is acting voluntarily, and has made an informed decision.

§ -6 Counseling referral. If, in the opinion of either the attending provider or the consulting provider, there are indications of a psychiatric or psychological disorder, the attending provider or the consulting provider shall refer the patient for counseling. No medication to end a patient's life pursuant to this chapter shall be prescribed until the person performing the counseling determines that the patient is not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

§ -7 Informed decision. No qualified patient shall receive a prescription for medication to end the qualified patient's life pursuant to this chapter unless the qualified patient has made an informed decision. Immediately prior to writing a prescription under this chapter, the attending
provider shall verify that the qualified patient is making an
informed decision.

§ -8 Family notification. The attending provider shall
recommend that the qualified patient notify the next of kin of
the qualified patient's request for a prescription pursuant to
this chapter. A qualified patient who declines or is unable to
notify next of kin shall not have the qualified patient's
request denied solely for that reason.

§ -9 Written and oral requests. To receive a
prescription for medication that a qualified patient may self-
administer to end the qualified patient's life pursuant to this
chapter, a qualified patient shall have made an oral request and
a written request, and reiterate the oral request to the
qualified patient's attending provider not less than fifteen
days after making the initial oral request. At the time the
qualified patient makes the second oral request, the attending
provider shall offer the qualified patient an opportunity to
rescind the request.

§ -10 Right to rescind request. A qualified patient may
rescind the request at any time and in any manner without regard
to the qualified patient's mental state. No prescription under
this chapter shall be made available pursuant to section 4(a)(12) if the attending provider has not offered the qualified patient an opportunity to rescind the request made pursuant to section 9.

$-11 Waiting periods. Not less than fifteen days shall elapse between the qualified patient's initial oral request and the taking of steps to make available a prescription pursuant to section 4(a)(12). Not less than forty-eight hours shall elapse between the qualified patient's written request and the taking of steps to make available a prescription pursuant to section 4(a)(12).

$-12 Medical record; documentation requirements. The following shall be documented or filed in a qualified patient's medical record:

(1) All oral requests by the qualified patient for a prescription to end the qualified patient's life pursuant to this chapter;

(2) All written requests by the qualified patient for a prescription to end the qualified patient's life pursuant to this chapter;
(3) The attending provider's diagnosis and prognosis and
determination that the qualified patient is capable,
acting voluntarily, and has made an informed decision;
(4) The consulting provider's diagnosis and prognosis and
verification that the qualified patient is capable,
acting voluntarily, and has made an informed decision;
(5) A report of the outcome and determinations made during
counseling, if performed;
(6) The attending provider's offer to the qualified
patient to rescind the patient's request at the time
of the qualified patient's second oral request made
pursuant to section -9; and
(7) A note by the attending provider indicating that all
requirements under this chapter have been met and
indicating the steps taken to carry out the request,
including a notation of the medication prescribed.
§ -13 Residency requirement. Only requests made by
residents of this State shall be granted under this chapter.
Factors demonstrating state residency include but are not
limited to:
(1) Possession of a Hawaii driver's license or civil identification card;
(2) Registration to vote in Hawaii;
(3) Evidence that the patient owns or leases property in Hawaii; or
(4) Filing of a Hawaii tax return for the most recent tax year.

§ 14 Reporting requirements. (a) Within thirty calendar days of writing a prescription, the attending provider shall submit a copy of the qualifying patient's written request, as well as copy of all the documentation required pursuant to section -12 to the department.
(b) Within thirty calendar days following the qualifying patient's death from ingestion of a prescribed medication pursuant to this chapter, or any other cause, the attending provider shall submit any follow-up information to the documentation required pursuant to section -12 to the department.
(c) The department shall annually collect and review all information submitted pursuant to this chapter. The information collected shall be confidential and shall be collected in such a
manner that protects the privacy of all qualifying patients, the
qualifying patients' family, and any attending provider or
consulting provider involved with a qualifying patient pursuant
to this chapter. Information collected shall not be disclosed,
disclosable, or compelled to be produced in any civil,
criminal, administrative, or other proceeding.
(d) On or before July 1, 2019, and each year thereafter,
the department shall create a report of information collected
under subsection (c) and vital statistics records maintained by
the department and shall post the report on the department's
website. Information contained in the report shall only
include:
(1) The number of qualifying patients for whom a
prescription was written pursuant to this chapter;
(2) The number of known qualifying patients who died each
year for whom a prescription was written pursuant to
this chapter and the cause of death of those
qualifying patients;
(3) The total number of prescriptions written pursuant to
this chapter for the year in which the report was
created as well as cumulatively for all years beginning with 2019;

(4) The total number of qualifying patients who died while enrolled in hospice or other similar palliative care program at the time of death;

(5) The number of known deaths in Hawaii from a prescription written pursuant to this chapter per five-thousand deaths in Hawaii;

(6) The number of attending providers who wrote prescriptions pursuant to this chapter;

(7) Of the people who died as a result of self-administering a prescription pursuant to this chapter:

(A) Age at death;

(B) Education level;

(C) Race;

(D) Sex;

(E) Type of insurance, if any; and

(F) Underlying illness.

§ -15 Disposal of unused medication. A person who has custody or control of any unused medication dispensed under this chapter after the death of a qualified patient shall personally
deliver the unused medication for disposal to the nearest
qualified facility that properly disposes of controlled
substances, or if none is available, shall dispose of it by
lawful means.

§ -16 Effect on construction of wills or contracts. (a)
No provision in any will or contract, or other agreement,
whether written or oral, to the extent the provision would
affect whether a person may make or rescind a request for a
prescription to end the person's life pursuant to this chapter,
shall be valid.

(b) No obligation owing under any currently existing
contract shall be conditioned or affected by the making or
rescinding of a request, by a person, for a prescription to end
the person's life pursuant to this chapter.

§ -17 Insurance or annuity policies. The sale,
procurement, or issuance of any life, health, or accident
insurance or annuity policy or the rate charged for any such
policy shall not be conditioned upon or affected by the making
or rescinding of a request, by a person, for a prescription to
end the person's life pursuant to this chapter. A qualified
patient's act of ingesting medication to end the qualified
§ -18 Construction of chapter. (a) Nothing in this chapter shall be construed to authorize a health care provider or any other person to end a patient's life by lethal injection, mercy killing, or active euthanasia. Actions taken in accordance with this chapter shall not, for any purpose, constitute suicide, assisted suicide, mercy killing, murder, manslaughter, negligent homicide, or any other criminal conduct under the law.

(b) Nothing in this chapter shall be construed to allow a lower standard of care for qualified patients in the community where the qualified patient is treated or in a similar community.

§ -19 Immunities; basis for prohibiting health care provider from participation; notification; permissible sanctions. (a) Except as provided in section -20 and subsection (c):

(1) No person shall be subject to civil or criminal liability or professional disciplinary action for participating or acting in good faith compliance with
this chapter, including being present when a qualified patient takes the prescribed medication to end the qualified patient's life pursuant to this chapter;

(2) No professional organization or association or health care provider shall subject any person to censure, discipline, suspension, loss of license, loss of privileges, loss of membership, or other penalty for participating or refusing to participate in good faith compliance with this chapter;

(3) No request by a qualified patient for a prescription or provision by an attending provider of medication in good faith compliance with this chapter shall constitute neglect, harm, self-neglect, or abuse for any purpose of law or provide the sole basis for the appointment of a guardian or conservator;

(4) No health care provider shall be under any duty, whether by contract, statute, or any other legal requirement, to participate in the provision to a qualified patient of a prescription or of medication to end the qualified patient's life pursuant to this chapter. If a health care provider is unable or
unwilling to carry out a patient's request under this chapter and the patient transfers the patient's care to a new health care provider, the prior health care provider shall transfer, upon request, a copy of the patient's relevant medical records to the new health care provider; and

(5) No health care facility shall be subject to civil or criminal liability for acting in good faith compliance with this chapter.

(b) Notwithstanding any other provision of law, a health care provider may prohibit another health care provider from participating in actions covered by this chapter on the premises of the prohibiting provider if the prohibiting provider has notified the health care provider of the prohibiting provider's policy regarding participation in actions covered by this chapter. Nothing in this subsection shall prevent a health care provider from providing health care services to a patient that do not constitute participation in actions covered by this chapter.

(c) Subsection (a) notwithstanding, a health care provider may subject another health care provider to the following
sanctions, if the sanctioning health care provider has notified
the sanctioned health care provider prior to participation in
actions covered by this chapter that it prohibits participation
in actions covered by this chapter:

(1) Loss of privileges, loss of membership, or other
sanction provided pursuant to the medical staff
bylaws, policies, and procedures of the sanctioning
health care provider if the sanctioned health care
provider is a member of the sanctioning provider's
medical staff and participates in actions covered by
this chapter while on the health care facility
premises of the sanctioning health care provider other
than in the private medical office of the sanctioned
health care provider;

(2) Termination of lease or other property contract or
other nonmonetary remedies provided by lease contract,
not including loss or restriction of medical staff
privileges or exclusion from a provider panel, if the
sanctioned health care provider participates in
actions covered by this chapter while on the premises
of the sanctioning health care provider or on property
that is owned by or under the direct control of the
sanctioning health care provider; or

(3) Termination of contract or other nonmonetary remedies
provided by contract if the sanctioned health care
provider participates in actions covered by this
chapter while acting in the course and scope of the
sanctioned health care provider's capacity as an
employee or independent contractor of the sanctioning
health care provider; provided that nothing in this
paragraph shall be construed to prevent:

(A) A health care provider from participating in
actions covered by this chapter while acting
outside the course and scope of the health care
provider's capacity as an employee or independent
contractor; or

(B) A patient from contracting with the patient's
attending provider and consulting provider to act
outside the course and scope of either provider's
capacity as an employee or independent contractor
of the sanctioning health care provider.
(d) A health care provider that imposes sanctions pursuant to subsection (c) shall follow all due process and other procedures the sanctioning health care provider may have that are related to the imposition of sanctions on another health care provider.

(e) For the purposes of this section:

"Notify" means to deliver a separate statement in writing to a health care provider specifically informing the health care provider prior to the health care provider's participation in actions covered by this chapter of the sanctioning health care provider's policy regarding participation in actions covered by this chapter.

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

(1) Making an initial determination that a patient has a terminal disease and informing the patient of the medical prognosis;
(2) Providing information about this chapter to a patient
upon the request of the patient;

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

(4) Entering into a contract with a patient as the
patient's attending provider or consulting provider to
act outside of the course and scope of the provider's
capacity as an employee or independent contractor of a
health care provider.

(f) Action taken pursuant to sections -4 through -6
shall not be the sole basis for disciplinary action under
section 453-8 or section 457-12.

§ -20 Prohibited acts; penalties. (a) Any person who
intentionally:

(1) Alters a request for a prescription without the
authorization of a qualified patient;

(2) Forges a request for a prescription; or

(3) Conceals or destroys the rescission of a request for a
prescription;

shall be guilty of a class A felony.
(b) Any person who coerces or exerts undue influence on a qualified patient to request a prescription or to destroy a rescission of a request for a prescription shall be guilty of a class A felony.

(c) Any person who intentionally alters, forges, conceals, or destroys any request for medication or treatment, any rescission of a request for medication or treatment, or any other evidence or document reflecting a patient's desires and interests:

(1) Without authorization of the patient; and

(2) With the intent and effect to cause the withholding or withdrawal of life-sustaining medication, treatment, or procedures or of artificially administered nutrition and hydration that hastens the death of the patient,

shall be guilty of a class A felony.

(d) Any person who, intentionally alters, forges, conceals, or destroys any request for a prescription, rescission of a request for a prescription, or other evidence or document reflecting a qualified patient's desires and interests:

(1) Without authorization of the qualified patient; and
(2) With the intent or effect of negating the qualified patient's health care decision to obtain a prescription under this chapter, shall be guilty of a misdemeanor.

(e) Nothing in this section shall limit any liability for civil damages resulting from any intentional or negligent conduct by any person in violation of this chapter.

(f) The penalties in this chapter are cumulative and shall not preclude criminal penalties pursuant to other applicable state law.

§ -21 Claims by governmental entity for costs incurred. Any governmental entity that incurs costs resulting from a person terminating the person's life pursuant to this chapter in a public place shall have a claim against the estate of the person to recover costs and reasonable attorneys' fees related to enforcing the claim.

§ -22 Severability. Any provision of this chapter that is held invalid as to any person or circumstance shall not affect the application of any other provision of this chapter that can be given full effect without the invalid provision or application.
§ -23 Form of the request. A request for a prescription as authorized by this chapter shall be in substantially the following form:

"REQUEST FOR MEDICATION TO END MY LIFE

I, _______________________, am an adult of sound mind.

I am suffering from __________, which my attending provider has determined is a terminal disease and that has been medically confirmed by a consulting provider.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed and potential associated risks, the expected result, and the feasible alternatives or additional treatments, including comfort care, hospice care, and pain control.

I request that my attending provider prescribe medication that I may self-administer to end my life; provided that my attending provider may assist in the administration of the medication if I am unable to self-administer the medication due to my terminal illness.

INITIAL ONE:

_____ I have informed my family of my decision and taken their opinions into consideration.
I have decided not to inform my family of my decision.

I have no family to inform of my decision.

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

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

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

Signed: ____________________

Dated: ____________________

DECLARATION OF WITNESSES

We declare that the person signing this request:

(a) Is personally known to us or has provided proof of identity;

(b) Signed this request in our presence;
(c) Appears to be of sound mind and not under duress or to have been induced by fraud, or subjected to undue influence when signing the request; and

(d) Is not a patient for whom either of us is the attending provider.

______________________ Witness Date__________

______________________ Witness 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."

§ -24 Form of final attestation. (a) A final attestation form shall be given to a qualifying patient at the time an attending provider writes the prescription authorized by this chapter and shall be in substantially the following form:

"FINAL ATTESTATION FOR A REQUEST FOR MEDICATION TO END MY LIFE
I, ______________________, am an adult of sound mind.
I am suffering from _________, which my attending provider has determined is a terminal disease and that has been medically confirmed by a consulting provider.

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I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed and potential associated risks, the expected result, and the feasible alternatives or additional treatment options, including comfort care, hospice care, and pain control.

I understand that I am requesting that my attending provider prescribe medication that I may self-administer to end my life; provided that my attending provider may assist in the administration of the medication if I am unable to self-administer the medication due to my terminal illness.

INITIAL ONE:

_____ I have informed my family of my decision and taken their opinions into consideration.

_____ I have decided not to inform my family of my decision.

_____ I have no family to inform of my decision.

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

I understand that I still may choose not to ingest the medication prescribed and by signing this form I am under no obligation to ingest the medication prescribed.
I am fully aware that the prescribed medication will end my life and while I expect to die when I take the medication prescribed, I also understand that my death may not be immediate and my attending provider has counseled me about this possibility.

I make this request voluntarily and without reservation.

Signed: ___________________

Dated: ___________________

(b) The final attestation form shall be completed by the qualifying patient within forty-eight hours prior to the qualifying patient self-administration of the medication prescribed pursuant to this chapter. Upon the qualifying patient's death, the completed final attestation form shall be delivered by the qualifying patient's health care provider, family member, or other representative to the attending provider for inclusion in the qualifying patient's medical record.

§ -25 Annual report. The department shall submit to the legislature an annual report no later than twenty days prior to the convening of each regular session. The report shall include but not be limited to:
(1) An annual analysis of the implementation of this chapter, including any implementation problems; and

(2) Any proposed legislation."

SECTION 4. Section 327E-13, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) This chapter shall not authorize mercy killing, assisted suicide, euthanasia, or the provision, withholding, or withdrawal of health care, to the extent prohibited by other statutes of this State[[-]]; provided that this subsection shall not apply to actions taken under chapter ____.

SECTION 5. Section 327H-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Nothing in this section shall be construed to:

(1) Expand the authorized scope of practice of any licensed physician;

(2) Limit any reporting or disciplinary provisions applicable to licensed physicians and surgeons who violate prescribing practices; and

(3) Prohibit the discipline or prosecution of a licensed physician for:
(A) Failing to maintain complete, accurate, and current records that document the physical examination and medical history of a patient, the basis for the clinical diagnosis of a patient, and the treatment plan for a patient;

(B) Writing false or fictitious prescriptions for controlled substances scheduled in the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 United States Code 801 et seq. or in chapter 329;

(C) Prescribing, administering, or dispensing pharmaceuticals in violation of the provisions of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 United States Code 801 et seq. or of chapter 329;

(D) Diverting medications prescribed for a patient to the licensed physician's own personal use; and

(E) Causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual; provided that [it].
(i) It is not "causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual" to prescribe, dispense, or administer medical treatment for the purpose of treating severe acute pain or severe chronic pain, even if the medical treatment may increase the risk of death, so long as the medical treatment is not also furnished for the purpose of causing, or the purpose of assisting in causing, death for any reason[—]; and

(ii) This subparagraph shall not apply to actions taken under chapter____.

SECTION 6. Section 707-701.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) Except as provided in section 707-701, a person commits the offense of murder in the second degree if the person intentionally or knowingly causes the death of another person[—]; provided that this section shall not apply to actions taken under chapter____."
SECTION 7. Section 707-702, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of manslaughter if:

(a) The person recklessly causes the death of another person; or

(b) The person intentionally causes another person to commit suicide;"

provided that this section shall not apply to actions taken under chapter .

SECTION 8. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.
SECTION 11. This Act shall take effect upon its approval.

INTRODUCED BY:

[Signatures]

JAN 2 4 2018
Report Title:
Health; Our Care, Our Choice

Description:
Establishes a regulatory process under which an adult resident of the State with a medically confirmed terminal disease and less than six months to live may choose to obtain a prescription for medication to end the patient's life. Imposes criminal sanctions for tampering with a patient's request for a prescription or coercing a patient to request a prescription.

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