
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 all adults should execute
2 an advance health-care directive to ensure that after their
3 health has deteriorated and they are near death, their wishes
4 are known and compassionately followed. However, there will be
5 many who will choose not to take this action because the process
6 of conveying a person's last wishes is very emotional and
7 personal.

8 The legislature recognizes that human life is immensely
9 important and believes that in the absence of a clear statement
10 of the patient's wishes, or of a surrogate or guardian who can
11 make decisions in the patient's best interest, all reasonable
12 actions should be taken to prolong the patient's life.

13 The legislature further finds that hospice palliative care
14 increases quality of life and comfort for patients who are dying
15 and their families. Yet, hospice coverage is generally limited
16 to those who have six months or less to live.



1 The purpose of this Act is to provide patients who are near
2 death with as much support as necessary in their time of need
3 by:

4 (1) Requiring the health care provider to provide patients
5 without an advance health care directive a surrogate,
6 or guardian, with all basic life support care and
7 invasive patient care designed to stabilize and support
8 the patient's condition, and to make every effort to
9 prolong the patient's life; and

10 (2) Requiring insurers to extend coverage for hospice care
11 to persons who have been diagnosed as having a life
12 expectancy of two years or less.

13 SECTION 2. Section 327E-7, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~§327E-7~~ **Obligations of health-care provider.** (a)

16 Before implementing a health-care decision made for a patient, a
17 supervising health-care provider, if possible, shall promptly
18 communicate to the patient the decision made and the identity of
19 the person making the decision.

20 (b) A supervising health-care provider who knows of the
21 existence of an advance health-care directive, a revocation of
22 an advance health-care directive, or a designation or



1 disqualification of a surrogate, shall promptly record its
2 existence in the patient's health-care record and, if it is in
3 writing, shall request a copy and if one is furnished shall
4 arrange for its maintenance in the health-care record.

5 (c) A supervising health-care provider who makes or is
6 informed of a determination that a patient lacks or has
7 recovered capacity, or that another condition exists which
8 affects an individual instruction or the authority of an agent,
9 guardian, or surrogate, shall promptly record the determination
10 in the patient's health-care record and communicate the
11 determination to the patient, if possible, and to any person
12 then authorized to make health-care decisions for the patient.

13 (d) Except as provided in subsections (e) and (f), a
14 health-care provider or institution providing care to a patient
15 shall:

- 16 (1) Comply with an individual instruction of the patient
17 and with a reasonable interpretation of that
18 instruction made by a person then authorized to make
19 health-care decisions for the patient; and
20 (2) Comply with a health-care decision for the patient
21 made by a person then authorized to make health-care
22 decisions for the patient to the same extent as if the



1 decision had been made by the patient while having
2 capacity.

3 (e) A health-care provider may decline to comply with an
4 individual instruction or health-care decision for reasons of
5 conscience. A health-care institution may decline to comply
6 with an individual instruction or health-care decision if the
7 instruction or decision is contrary to a policy of the
8 institution which is expressly based on reasons of conscience
9 and if the policy was timely communicated to the patient or to a
10 person then authorized to make health-care decisions for the
11 patient.

12 (f) A health-care provider or institution may decline to
13 comply with an individual instruction or health-care decision
14 that requires medically ineffective health care or health care
15 contrary to generally accepted health-care standards applicable
16 to the health-care provider or institution.

17 (g) A health-care provider or institution that declines to
18 comply with an individual instruction or health-care decision
19 shall:

20 (1) Promptly so inform the patient, if possible, and any
21 person then authorized to make health-care decisions
22 for the patient;



1 (2) Provide continuing care to the patient until a
 2 transfer can be effected; and

3 (3) Unless the patient or person then authorized to make
 4 health-care decisions for the patient refuses
 5 assistance, immediately make all reasonable efforts to
 6 assist in the transfer of the patient to another
 7 health-care provider or institution that is willing to
 8 comply with the instruction or decision.

9 (h) A health-care provider or institution may not require
 10 or prohibit the execution or revocation of [+]an[+] advance
 11 health-care directive as a condition for providing health care.

12 (i) If a patient does not have an advance health-care
 13 directive, surrogate, or guardian, a health-care provider shall
 14 provide all basic life support care as well as invasive patient
 15 care designed to stabilize and support a patient's condition and
 16 shall make every reasonable effort to prolong the patient's
 17 life."

18 SECTION 3. Section 431:10A-119, Hawaii Revised Statutes,
 19 is amended to read as follows:

20 "[+] §431:10A-119 [+] **Hospice care coverage.** (a) Any other
 21 law to the contrary notwithstanding, [~~commencing on January 1,~~
 22 ~~2000,~~] all authorized insurers that provide for payment of or



1 reimbursement for hospice care[7] shall reimburse hospice care
2 services for each insured policyholder covered for hospice care
3 according to the following:

- 4 (1) A minimum daily rate as set by the Health Care
5 Financing Administration for hospice care;
- 6 (2) Reimbursement for residential hospice room and board
7 expenses directly related to the hospice care being
8 provided; and
- 9 (3) Reimbursement for each hospice referral visit during
10 which a patient is advised of hospice care options,
11 regardless of whether the referred patient is
12 eventually admitted to hospice care.

13 (b) Every insurer shall provide notice to its
14 policyholders regarding the coverage required by this section.
15 Notice shall be in writing and in literature or correspondence
16 sent to policyholders [~~, beginning with calendar year 2000,~~]
17 along with any other mailing to policyholders [~~, but in no case~~
18 ~~later than July 1, 2000]~~.

19 (c) All authorized insurers that provide for payment or
20 reimbursement for hospice care shall accept as eligible for
21 hospice care coverage, persons with a life expectancy
22 certification of two years or less."



1 SECTION 4. Section 432:1-608, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " [f] §432:1-608 [f] **Hospice care coverage.** (a) Any other
4 law to the contrary notwithstanding, [~~commencing on January 1,~~
5 ~~2000,~~] all mutual benefit societies issuing or renewing an
6 individual and group hospital or medical service plan, policy,
7 contract, or agreement in this [~~State~~] state that provides for
8 payment of or reimbursement for hospice care, shall reimburse
9 hospice care services for each insured member covered for
10 hospice care according to the following:

- 11 (1) A minimum daily rate as set by the Health Care
12 Financing Administration for hospice care;
- 13 (2) Reimbursement for residential hospice room and board
14 expenses directly related to the hospice care being
15 provided; and
- 16 (3) Reimbursement for each hospice referral visit during
17 which a patient is advised of hospice care options,
18 regardless of whether the referred patient is
19 eventually admitted to hospice care.

20 (b) Every insurer shall provide notice to its members
21 regarding the coverage required by this section. Notice shall
22 be in writing and in literature or correspondence sent to



1 members [~~, beginning with calendar year 2000,~~] along with any
2 other mailing to members [~~, but in no case later than July 1,~~
3 2000].

4 (c) All authorized insurers that provide for payment or
5 reimbursement for hospice care shall accept as eligible for
6 hospice care coverage, persons with a life expectancy
7 certification of two years or less."

8 SECTION 5. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun, before its effective date.

11 SECTION 6. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 7. This Act shall take effect upon its approval.
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INTRODUCED BY:

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HB 1987

Report Title:

Compassionate Health Care

Description:

Provides that all patients who have not executed an advance health-care directive or have no surrogate or guardian shall receive basic life support assistance and all other medical care required to prolong the patient's life; requires insurance providers to extend hospice care coverage to patients with not more than two years to live.

