
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 legislature finds that on January 17, 2006,
2 the United States Supreme Court, in Gonzales v. Oregon, No. 04-
3 623, ruled by a vote of six to three that Attorney General John
4 D. Ashcroft exceeded his legal authority in 2001 when he
5 threatened to prohibit doctors from prescribing federally
6 controlled drugs if they authorized lethal doses of the
7 medications under the Oregon Death With Dignity Act. Although
8 frequently described as a "right to die" case, Gonzales v.
9 Oregon, No. 04-623, was not, strictly speaking, about the
10 constitutional right to end one's own life. The United States
11 Supreme Court has already ruled, in 1997, that there is no such
12 right and did not revisit that holding in Gonzales v. Oregon.
13 However, the ruling is seen to pave the way for other states to
14 enact laws similar to Oregon's death with dignity statute.

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

18 **"CHAPTER**



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DEATH WITH DIGNITY

PART I. GENERAL PROVISIONS

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

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

"Alternate physician" means a physician who takes over the responsibilities relinquished by an attending physician who either declines or is unable to fulfill the responsibilities of an attending physician as required under section -31(a).

"Attending physician" means the physician who has primary 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 physician or consulting physician, psychiatrist, or psychologist, a patient has the ability to make and communicate health care decisions to health care providers, including communication through persons familiar with the patient's manner of communicating if those persons are available.

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

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

9 "Department" means the department of health.

10 "Health care facility" means:

11 (1) A hospital with an organized medical staff, with
12 permanent facilities that include inpatient beds, and
13 with medical services, including physician services
14 and continuous nursing services under the supervision
15 of registered nurses, to provide diagnosis and medical
16 or surgical treatment primarily for acutely ill
17 patients and accident victims, or to provide treatment
18 for the mentally ill or to provide treatment in
19 special inpatient care facilities. For purposes of
20 this definition, a "special inpatient care facility"
21 is a facility with permanent inpatient beds and other
22 facilities designed and used for special health care



1 purposes, including: rehabilitation centers, college
2 infirmaries, chiropractic facilities, facilities for
3 the treatment of alcoholism or drug abuse, or
4 inpatient care facilities, and any other establishment
5 falling within a classification established by the
6 department, after determination of the need for that
7 classification and the level and kind of health care
8 appropriate for that classification; or

9 (2) A long term care facility with permanent facilities
10 that include inpatient beds, providing medical
11 services, including nursing services but excluding
12 surgical procedures except as may be permitted by the
13 rules of the department, to provide treatment for two
14 or more unrelated patients. The term "Long term care
15 facility" includes:

16 (A) A skilled nursing facility, whether an
17 institution or a distinct part of an institution,
18 that is primarily engaged in providing to
19 inpatients skilled nursing care and related
20 services for patients who require medical or
21 nursing care, or rehabilitation services for the



1 rehabilitation of injured, disabled, or sick
2 persons; and

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

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

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

19 "Informed decision" means a decision that is made by a
20 qualified patient to request and obtain a prescription to end
21 the patient's life in a humane and dignified manner and that is



1 based upon an appreciation of the relevant facts and after being
2 fully informed by the attending physician of:

- 3 (1) The qualified patient's medical diagnosis;
- 4 (2) The qualified patient's prognosis;
- 5 (3) The potential risks associated with taking the
6 medication to be prescribed;
- 7 (4) The probable result of taking the medication to be
8 prescribed; and
- 9 (5) The feasible alternatives, including comfort care,
10 hospice care, and pain control.

11 "Medically confirmed" means the medical opinion of the
12 attending physician has been confirmed by a consulting physician
13 who has examined the patient and the patient's relevant medical
14 records.

15 "Patient" means a person who is under the care of a
16 physician.

17 "Physician" means a doctor of medicine or osteopathy
18 licensed to practice medicine by the board of medical examiners
19 pursuant to chapter 453 or 460.

20 "Qualified patient" means a capable adult who is a resident
21 of Hawaii and has satisfied the requirements of this chapter in



1 order to obtain a prescription for medication to end the
2 patient's life in a humane and dignified manner.

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

6 § -2 **Severability.** Any section of this chapter that is
7 held invalid as to any person or circumstance shall not affect
8 the application of any other section of this chapter which can
9 be given full effect without the invalid section or application.

10 **PART II. WRITTEN REQUEST FOR MEDICATION**

11 § -21 **Who may initiate a written request for medication.**

12 (a) An adult who is capable, is a resident of Hawaii, and has
13 been determined by the attending physician or alternate
14 physician and consulting physician to be suffering from a
15 terminal disease, and who has voluntarily expressed that
16 person's wish to die, may make a written request for medication
17 for the purpose of ending that person's life in a humane and
18 dignified manner in accordance with this chapter.

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

21 § -22 **Form of the written request.** (a) A valid request
22 for medication under this chapter shall be in substantially the



1 form described in section -61, signed and dated by the
2 patient and witnessed by at least two individuals who, in the
3 presence of the qualified patient, attest that to the best of
4 their knowledge and belief the qualified patient is capable,
5 acting voluntarily, and is not being coerced to sign the
6 request.

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

- 9 (1) A relative of the qualified patient by blood,
10 marriage, or adoption;
- 11 (2) A person who at the time the request is signed would
12 be entitled to any portion of the estate of the
13 qualified patient upon death under any will or by
14 operation of law; or
- 15 (3) An owner, operator, or employee of a health care
16 facility where the qualified patient is receiving
17 medical treatment or is a resident.

18 (c) The patient's attending physician or alternate
19 physician at the time the request is signed shall not be a
20 witness.

21 (d) If the qualified patient is in a long-term care
22 facility at the time the written request is made, a third



1 witness shall be required in addition to the two witnesses
 2 described in subsection (a). The third witness shall be an
 3 individual designated by the facility and having the
 4 qualifications specified by the department by rule.

PART III. SAFEGUARDS

6 **§ -31 Attending physician responsibilities; alternate**
 7 **physician.** (a) The attending physician shall:

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

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

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

15 (A) The patient's medical diagnosis;

16 (B) The patient's prognosis;

17 (C) The potential risks associated with taking the
 18 medication to be prescribed;

19 (D) The probable result of taking the medication to
 20 be prescribed; and

21 (E) The feasible alternatives, including comfort
 22 care, hospice care, and pain control;



- 1 (4) Refer the patient to a consulting physician for
2 medical confirmation of the diagnosis and
3 determination that the patient is capable and acting
4 voluntarily;
- 5 (5) Refer the patient for counseling if appropriate
6 pursuant to section -33;
- 7 (6) Recommend that the patient notify next of kin;
- 8 (7) Counsel the patient about the importance of having
9 another person present when the patient takes the
10 medication prescribed pursuant to this chapter and of
11 not taking the medication in a public place;
- 12 (8) Inform the patient that the patient has an opportunity
13 to rescind the request at any time and in any manner,
14 and offer the patient an opportunity, pursuant to
15 section -36, to rescind at the end of the
16 fifteen-day waiting period;
- 17 (9) Verify, immediately prior to writing the prescription
18 for medication under this chapter, that the patient is
19 making an informed decision;
- 20 (10) Fulfill the medical record documentation requirements
21 of section -39;



1 (11) Ensure that all appropriate steps are carried out in
2 accordance with this chapter prior to writing a
3 prescription for medication to enable a qualified
4 patient to end the patient's life in a humane and
5 dignified manner; and

6 (12) (A) Dispense medications directly, including
7 ancillary medications intended to facilitate the
8 desired effect, to minimize the patient's
9 discomfort; provided the attending physician is
10 registered as a dispensing physician with the
11 board of medical examiners, has a current Drug
12 Enforcement Administration certificate, and
13 complies with any applicable administrative rule;
14 or

15 (B) With the patient's written consent:
16 (i) Contact a pharmacist and inform the
17 pharmacist of the prescription; and
18 (ii) Deliver the written prescription personally
19 or by mail to the pharmacist, who shall
20 dispense the medications either to the
21 patient, the attending physician, or an
22 expressly identified agent of the patient.



1 (b) Notwithstanding any other provision of law, the
2 attending physician may sign the patient's death certificate.

3 (c) If at any time an attending physician declines or is
4 unable to fulfill any of the responsibilities detailed in
5 subsection (a), particularly paragraph (12) regarding dispensing
6 medication to a patient, the attending physician shall
7 relinquish the responsibilities to an alternate physician who is
8 willing and able to fulfill the responsibilities detailed in
9 subsection (a). The alternate physician shall confirm with the
10 attending physician or the consulting physician that the
11 diagnosis has not changed and that the patient is capable, is
12 acting voluntarily, has made an informed decision, and remains a
13 qualified patient under this chapter. The alternate physician
14 may not dispense medication to the patient under subsection
15 (a)(12) until at least fifteen days after the alternate
16 physician's initial consultation with the patient.

17 § -32 **Consulting physician confirmation.** Before a
18 patient is deemed qualified under this chapter, the consulting
19 physician shall examine the patient and the patient's relevant
20 medical records and confirm in writing the attending physician's
21 diagnosis that the patient is suffering from a terminal disease
22 and shall verify that the patient is capable, is acting



1 voluntarily, and has made an informed decision. If necessary,
2 the consulting physician shall also confirm with the alternate
3 physician, pursuant to section -31(c), that the diagnosis has
4 not changed and that the patient is capable, is acting
5 voluntarily, has made an informed decision, and remains a
6 qualified patient under this chapter.

7 § -33 **Counseling referral.** If in the opinion of the
8 attending physician, the alternate physician, or the consulting
9 physician a patient may be suffering from a psychiatric or
10 psychological disorder or depression causing impaired judgment,
11 any one of the physicians shall refer the patient for
12 counseling. No medication to end a patient's life in a humane
13 and dignified manner shall be prescribed until the person
14 performing the counseling determines that the patient is not
15 suffering from a psychiatric or psychological disorder or
16 depression causing impaired judgment.

17 § -34 **Informed decision.** No person shall receive a
18 prescription for medication to end the patient's life in a
19 humane and dignified manner unless the patient has made an
20 informed decision. Immediately prior to writing a prescription
21 for medication under this chapter, the attending or alternate



1 physician shall verify that the qualified patient is making an
2 informed decision.

3 § **-35 Family notification.** The attending or alternate
4 physician shall recommend that the qualified patient notify the
5 next of kin of the qualified patient's request for medication
6 pursuant to this chapter. A qualified patient who declines or
7 is unable to notify next of kin shall not have the qualified
8 patient's request denied for that reason.

9 § **-36 Written and oral requests.** In order to receive a
10 prescription for medication to end a qualified patient's life in
11 a humane and dignified manner, a qualified patient shall have
12 made an oral request and a written request and shall reiterate
13 the oral request to the qualified patient's attending or
14 alternate physician no less than fifteen days after making the
15 initial oral request. At the time the qualified patient makes a
16 second oral request, the attending or alternate physician shall
17 offer the qualified patient an opportunity to rescind the
18 request.

19 § **-37 Right to rescind request.** A qualified patient may
20 rescind a request at any time and in any manner without regard
21 to the qualified patient's mental state. No prescription for
22 medication under this chapter may be written without the



1 attending or alternate physician offering the qualified patient
2 an opportunity to rescind the request.

3 § **-38 Waiting periods.** No less than fifteen days shall
4 elapse between the qualified patient's initial oral request and
5 the writing of a prescription under this chapter. No less than
6 forty-eight hours shall elapse between the patient's written
7 request and the writing of a prescription under this chapter.

8 § **-39 Medical record documentation requirements.** The
9 following shall be documented or filed in the qualified
10 patient's medical record:

- 11 (1) All oral requests by a qualified patient for
12 medication to end the qualified patient's life in a
13 humane and dignified manner;
- 14 (2) All written requests by a qualified patient for
15 medication to end the qualified patient's life in a
16 humane and dignified manner;
- 17 (3) The attending physician's diagnosis, prognosis, and
18 determination that the patient is capable, acting
19 voluntarily, and has made an informed decision and, if
20 necessary, the alternate physician's confirmation that
21 the diagnosis has not changed and that the patient is
22 capable, is acting voluntarily, has made an informed



1 decision, and remains a qualified patient under this
2 chapter;

3 (4) The consulting physician's diagnosis, prognosis, and
4 verification that the patient is capable, acting
5 voluntarily, and has made an informed decision;

6 (5) A report of the outcome and determinations made during
7 counseling, if performed;

8 (6) The attending or alternate physician's offer to the
9 qualified patient to rescind the qualified patient's
10 request at the time of the qualified patient's second
11 oral request pursuant to section -36;

12 (7) A note by the attending or alternate physician
13 indicating that all requirements under this chapter
14 have been met and indicating the steps taken to carry
15 out the request, including a notation of the
16 medication prescribed; and

17 (8) A completed form reporting the event to be completed
18 by a monitor who is required to be present at the
19 event pursuant to section -41.

20 § -40 **Residency requirement.** Only requests made by
21 Hawaii residents who have been domiciled or physically present
22 in the State for a continuous period of at least six months

1 prior to the time the initial oral request for medication to end
2 the patient's life is made under this chapter shall be granted.

3 Factors demonstrating Hawaii residency include:

- 4 (1) Possession of a Hawaii driver's license;
- 5 (2) Registration to vote in Hawaii;
- 6 (3) Evidence that the person owns or leases property in
7 Hawaii;
- 8 (4) Filing of a Hawaii tax return for the most recent tax
9 year; or
- 10 (5) Any other documentation that establishes legal
11 residency in the State.

12 § -41 **Monitor required; form.** (a) A qualified patient
13 shall designate a competent adult to act as a monitor and who
14 shall be present at the time of actual administration of the
15 medication to the qualified patient and be a witness to the
16 event. The monitor shall have the power to act on behalf of the
17 qualified patient to:

- 18 (1) Stop the administration of the medication if it has
19 not yet been carried out; or
- 20 (2) Enlist medical assistance to attempt to reverse the
21 effect of the medication if the medication has already
22 been delivered,



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

4 (b) The department shall develop a form for a monitor to
5 complete upon witnessing and participating in the event
6 described under this section.

7 § -42 **Department requirements.** (a) The department
8 shall annually review a sample of records maintained pursuant to
9 this chapter and shall require any health care provider upon
10 dispensing medication pursuant to this chapter to file a copy of
11 the dispensing record with the department.

12 (b) The department shall adopt rules pursuant to chapter
13 91 to facilitate the collection of information regarding
14 compliance with this chapter. Except as otherwise required by
15 law, the information collected shall not be a government record
16 under chapter 92F and may not be made available for inspection
17 by the public.

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

21 (d) Upon issuance of a death certificate under section
22 338-9 of any qualified patient under this chapter, the



1 department shall designate the cause of death as the underlying
2 terminal disease or diseases as diagnosed under section
3 -31(1).

4 **§ -43 Effect on construction of wills, contracts, and**
5 **other agreements.** (a) No provision in a contract, will, or
6 other agreement, whether written or oral, to the extent the
7 provision would affect whether a person may make or rescind a
8 request for medication to end the person's life in a humane and
9 dignified manner, shall be valid.

10 (b) No obligation owing under any currently existing
11 contract shall be conditioned or affected by the making or
12 rescinding of a request, by a person who is a qualified patient,
13 for medication to end the person's life in a humane and
14 dignified manner.

15 **§ -44 Insurance or annuity policies.** The sale,
16 procurement, or issuance of any life, health, or accident
17 insurance or annuity policy or the rate charged for any policy
18 in this State shall not be conditioned upon or affected by the
19 making or rescinding of a request, by a person who is a
20 qualified patient, for medication to end the person's life in a
21 humane and dignified manner, nor shall a qualified patient's act
22 of ingesting medication to end the patient's life in a humane



1 and dignified manner have an effect upon any life, health, or
 2 accident insurance or annuity policy issued in this State, be
 3 construed as a suicide for purposes of any life, health, or
 4 accident insurance or annuity policy issued in this State for
 5 purposes of section 431:10D-108(b)(5).

6 **§ -45 Construction of chapter.** Nothing in this chapter
 7 shall be construed to authorize a physician or any other person
 8 to end a patient's life by lethal injection, mercy killing, or
 9 active euthanasia. Actions taken in accordance with this
 10 chapter shall not, for any purpose, constitute suicide, assisted
 11 suicide, mercy killing, or homicide under the law.

12 **PART IV. IMMUNITIES AND LIABILITIES**

13 **§ -51 Immunities; basis for prohibiting health care**
 14 **provider or monitor from participation; notification;**
 15 **permissible sanctions.** (a) Except as provided in section

16 -52:

- 17 (1) No person shall be subject to civil or criminal
 18 liability or professional disciplinary action for
 19 participating in good faith compliance with this
 20 chapter. This includes being present when a qualified
 21 patient takes the prescribed medication to end the



1 qualified patient's life in a humane and dignified
2 manner;

3 (2) No professional organization or association, or health
4 care provider, may subject a person to censure,
5 discipline, suspension, loss of license, loss of
6 privileges, loss of membership, or other penalty for
7 participating or refusing to participate in good faith
8 compliance with this chapter;

9 (3) No request by a qualified patient for or provision by
10 an attending or alternate physician of medication in
11 good faith compliance with this chapter shall
12 constitute neglect for any purpose of law or provide
13 the sole basis for the appointment of a guardian or
14 conservator; and

15 (4) No health care provider shall be under any duty,
16 whether by contract, statute, or any other legal
17 requirement, to participate in the provision to a
18 qualified patient of medication to end the qualified
19 patient's life in a humane and dignified manner. If a
20 health care provider is unable or unwilling to carry
21 out a qualified patient's request under this chapter,
22 and the qualified patient transfers the qualified



1 patient's care to a new health care provider, the
2 prior health care provider shall transfer, upon
3 request, a copy of the qualified patient's relevant
4 medical records to the new health care provider.

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

6 (1) Notwithstanding any other provision of law, a health
7 care provider may prohibit another health care
8 provider from participating in this chapter on the
9 premises of the prohibiting provider if the
10 prohibiting provider has notified the health care
11 provider of the prohibiting provider's policy
12 regarding participating in this chapter. Nothing in
13 this paragraph shall prevent a health care provider
14 from providing health care services to a qualified
15 patient that does not constitute participation in this
16 chapter;

17 (2) Notwithstanding subsection (a), a health care provider
18 may subject another health care provider to the
19 sanctions stated in this paragraph if the sanctioning
20 health care provider has notified the sanctioned
21 provider prior to participation in this chapter that
22 it prohibits participation in this chapter:



- 1 (A) Loss of privileges, loss of membership, or other
2 sanction provided pursuant to the medical staff
3 bylaws, policies, and procedures of the
4 sanctioning health care provider if the
5 sanctioned provider is a member of the
6 sanctioning provider's medical staff and
7 participates in this chapter while on the health
8 care facility premises of the sanctioning health
9 care provider, but not including the private
10 medical office of a physician or other provider;
- 11 (B) Termination of lease or other property contract
12 or other nonmonetary remedies provided by lease
13 contract, not including loss or restriction of
14 medical staff privileges or exclusion from a
15 provider panel, if the sanctioned provider
16 participates in this chapter while on the
17 premises of the sanctioning health care provider
18 or on property that is owned by or under the
19 direct control of the sanctioning health care
20 provider; or
- 21 (C) Termination of contract or other nonmonetary
22 remedies provided by contract if the sanctioned



1 provider participates in this chapter while
2 acting in the course and scope of the sanctioned
3 provider's capacity as an employee or independent
4 contractor of the sanctioning health care
5 provider. Nothing in this subparagraph shall be
6 construed to prevent:

7 (i) A health care provider from participating in
8 this chapter while acting outside the course
9 and scope of the provider's capacity as an
10 employee or independent contractor; or

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

18 (3) A health care provider that imposes sanctions pursuant
19 to paragraph (2) shall follow all due process and
20 other procedures the sanctioning health care provider
21 may have, including, at a minimum, reasonable notice
22 and an opportunity for a hearing, that are related to



1 the imposition of sanctions on another health care
2 provider.

3 For the purposes of this subsection:

4 "Notify" means to make a separate statement in writing to
5 the health care provider specifically informing the health care
6 provider prior to the provider's participation in this chapter
7 of the sanctioning health care provider's policy about
8 participation in activities covered by this chapter.

9 "Participate in this chapter":

10 (1) Means to perform the duties of an attending or
11 alternate physician pursuant to section -31, the
12 consulting physician function pursuant to section
13 -32, the counseling function pursuant to section
14 -33, or the monitoring function pursuant to section
15 -41;

16 (2) Does not include:

17 (A) Making an initial determination that a patient
18 has a terminal disease and informing the patient
19 of the medical prognosis;

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



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

3 (D) A qualified patient contracting with the
4 patient's attending or alternate physician and
5 consulting physician to act outside of the course
6 and scope of the provider's capacity as an
7 employee or independent contractor of the
8 sanctioning health care provider.

9 (c) Suspension or termination of staff membership or
10 privileges under subsection (b) is not reportable under section
11 453-7.5, 453-8, 460-12, or 460-19. Action taken pursuant to
12 sections -22, -31, -32, or -33 shall not be the sole
13 basis for a report or complaint of unprofessional or
14 dishonorable conduct under section 453-7.5, 453-8, 460-12, or
15 460-19.

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

19 (e) Actions taken pursuant to this chapter shall not be
20 grounds for revocation, limitation, suspension, or denial of
21 licenses under section 453-8 or 460-12, so long as the health
22 care provider has complied fully with this chapter.



1 § **-52 Further immunities.** (a) A health care provider
2 or health care facility acting in good faith and in accordance
3 with this section shall not be subject to civil or criminal
4 liability or to discipline for unprofessional conduct for the
5 following:

6 (1) Complying with a health care decision of a person
7 apparently having authority to make a health care
8 decision for a patient, including a decision to
9 withhold or withdraw health care;

10 (2) Declining to comply with a health care decision of a
11 person based on a belief that the person then lacked
12 authority; or

13 (3) Complying with an advance health care directive and
14 assuming that the directive was valid when made and
15 has not been revoked or terminated.

16 (b) An individual acting as an agent, guardian, or
17 surrogate under this chapter shall not be subject to civil or
18 criminal liability or to discipline for unprofessional conduct
19 for health care decisions made in good faith.

20 § **-53 Liabilities.** (a) A person who, without
21 authorization of the qualified patient, wilfully alters or
22 forges a request for medication, or conceals or destroys a



1 rescission of that request, with the intent or effect of causing
2 the patient's death shall be guilty of a class A felony.

3 (b) Any person who coerces or exerts undue influence on a
4 patient to request medication for the purpose of ending the
5 patient's life, or to destroy a rescission of such a request,
6 shall be guilty of a class A felony.

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

10 (d) The penalties in this chapter do not preclude criminal
11 penalties applicable under any other law for conduct that is
12 inconsistent with this chapter.

13 **§ -54 Claims by governmental entity for costs incurred.**

14 Any governmental entity that incurs costs resulting from a
15 person terminating the person's life pursuant to this chapter in
16 a public place shall have a claim against the estate of the
17 person to recover costs and reasonable attorney fees related to
18 enforcing the claim.

19 **PART V. FORM OF THE REQUEST**

20 **§ -61 Form of the request.** A request for medication as
21 authorized by this chapter shall be in substantially the
22 following form:



REQUEST FOR MEDICATION

TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

1 I, _____, am an adult of sound mind. I am suffering
2 from _____, which my attending or alternate physician
3 has determined is a terminal disease and which has been
4 medically confirmed by a consulting physician. I have been
5 fully informed of my diagnosis, prognosis, the nature of
6 medication to be prescribed and potential associated risks, the
7 expected result, and the feasible alternatives, including
8 comfort care, hospice care, and pain control.

9 I request that my attending or alternate physician prescribe
10 medication that will end my life in a humane and dignified
11 manner.

12 INITIAL ONE:

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

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

16 _____ I have no family to inform of my decision.

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

19 I understand the full import of this request and I expect to die
20 when I take the medication to be prescribed. I further



1 understand that, although most deaths occur within three hours,
2 my death may take longer and my physician has counseled me about
3 this possibility.

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

6 Signed: _____

7 Dated: _____

8 **DECLARATION OF WITNESSES**

9 We declare that the person signing this request:

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

17 _____ Witness 1/Date

18 _____ Witness 2/Date

19 _____ Witness 3/Date

20 NOTE: One witness shall not be a relative (by blood, marriage,
21 or adoption) of the person signing this request, shall not be
22 entitled to any portion of the person's estate upon death, and



1 shall not own, operate, or be employed at a health care facility
2 where the person is a patient or resident. If the patient is an
3 inpatient at a health care facility, one of the witnesses shall
4 be an individual designated by the facility. The form shall
5 contain checkboxes to indicate the status of each witness with
6 respect to these qualifications."

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

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

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

20 "(c) This chapter shall not authorize mercy killing,
21 assisted suicide, euthanasia, or the provision, withholding, or
22 withdrawal of health care, to the extent prohibited by other



1 statutes of this State[-]; provided that death with dignity
2 under chapter _____ shall not be affected by this section."

3 SECTION 5. Section 431:10D-108, Hawaii Revised Statutes,
4 is amended by amending subsection (b) to read as follows:

5 "(b) No policy of life insurance shall be delivered or
6 issued for delivery in this State if it contains a provision
7 which excludes or restricts liability for death caused in a
8 certain specified manner or occurring while the insured has a
9 specified status, except that the policy may contain provisions
10 excluding or restricting coverage as specified therein in event
11 of death under any one or more of the following circumstances:

12 (1) Death as a result directly or indirectly of war,
13 declared or undeclared, or of any act or hazard of
14 such war;

15 (2) Death as a result of aviation under conditions
16 specified in the policy;

17 (3) Death as a result of a specified hazardous occupation
18 or occupations;

19 (4) Death while the insured is a resident outside of the
20 United States and Canada; or

21 (5) Death within two years from the date of issue of the
22 policy as a result of suicide, while sane or



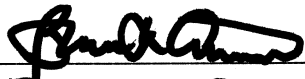
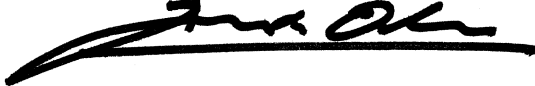
1 insane[-]; provided that death with dignity under
 2 chapter shall not be considered suicide for
 3 purposes of this section."

4 SECTION 6. This Act does not affect rights and duties that
 5 matured, penalties that were incurred, and proceedings that were
 6 begun, before its effective date.

7 SECTION 7. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 8. This Act shall take effect upon its approval.

10

INTRODUCED BY: 


JAN 25 2006



HB 3013

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.

