

JAN 19 2007

A BILL FOR AN ACT

RELATING TO PALLIATIVE CARE.

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

1 SECTION 1. The legislature finds that medical caregivers
2 for the terminally ill are inadequately protected from
3 manslaughter charges when a patient under their care dies.
4 Accordingly, the purpose of this Act is to protect from a
5 manslaughter charge those medical caregivers who, acting in
6 their professional capacity, lose a patient receiving palliative
7 care.

8 SECTION 2. Section 707-702, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§707-702 Manslaughter.** (1) A person commits the offense
11 of manslaughter if:

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

14 (b) The person intentionally causes another person to
15 commit suicide.

16 (2) In a prosecution for murder or attempted murder in the
17 first and second degrees it is an affirmative defense, which



1 reduces the offense to manslaughter or attempted manslaughter,
2 that the defendant was, at the time the defendant caused the
3 death of the other person, under the influence of extreme mental
4 or emotional disturbance for which there is a reasonable
5 explanation. The reasonableness of the explanation shall be
6 determined from the viewpoint of a reasonable person in the
7 circumstances as the defendant believed them to be.

8 (3) This section shall not apply to a medical caregiver
9 with prescriptive authority or authority to administer
10 medication who prescribes or administers medication for
11 palliative care to a terminally ill patient with the consent of
12 the terminally ill patient or the patient's agent.

13 (4) For the purposes of subsection (3):

14 (a) "Agent" means a person appointed to represent the
15 interests of the terminally ill patient by a medical
16 power of attorney, power of attorney, health care
17 proxy, or any other similar statutory or regular
18 procedure used for designation of such person.

19 (b) "Medical caregiver" means a physician, registered
20 nurse, nurse practitioner, or physician assistant
21 licensed by this State.

22 (c) "Palliative care" means medical care and treatment



1 provided by a licensed medical caregiver to a patient
 2 with an advanced chronic or terminal illness whose
 3 condition may not be responsive to curative treatment
 4 and who is, therefore, receiving treatment that
 5 relieves pain and suffering and supports the best
 6 possible quality of the patient's life.

7 (5) Subsection (3) shall not be interpreted to permit a
 8 medical caregiver to assist in the suicide of the patient.

9 ~~[+3+]~~ (6) Manslaughter is a class A felony."

10 SECTION 3. Statutory material to be repealed is bracketed
 11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: *[Signature]*
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Report Title:

Manslaughter; Palliative Care

Description:

Precludes a charge of manslaughter against a medical caregiver whose patient dies while receiving palliative care.

