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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 legislature finds that interest in the  
2 death with dignity issue has become increasingly important as  
3 people are now enjoying longer, healthier lives than at any  
4 other time in history. While diseases that kill suddenly and  
5 prematurely have been virtually wiped out in developed  
6 countries, the general population continues to experience  
7 conditions that result in lingering and agonizing declines, such  
8 as cancer, Parkinson's disease, and Lou Gehrig's disease.  
9 People with terminal illnesses need to have options when  
10 reviewing end of life choices.

11           The legislature further finds that in 1997, Oregon enacted  
12 the death with dignity act, which allows terminally-ill  
13 Oregonians to end their lives through the voluntary self-  
14 administration of lethal medications expressly prescribed by a  
15 physician for that purpose. A 2014 report from the Oregon  
16 health authority indicates that since 1997, a total of 1,327



1 people have received life-ending prescriptions and 859 patients  
2 have died from taking these prescribed medications.

3 Other states, such as California, Vermont, and Washington,  
4 have followed Oregon's lead in passing similar legislation. A  
5 court ruling in Montana protects physicians who aid dying  
6 patients from prosecution, effectively legalizing the practice,  
7 while a similar court case is pending in New Mexico.

8 The purpose of this Act is to allow terminally ill patients  
9 under certain conditions to receive life-ending medication,  
10 enabling these patients to determine the time and place of their  
11 death.

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

15 "CHAPTER

16 DEATH WITH DIGNITY

17 PART I. GENERAL PROVISIONS

18 § -1 **Definitions.** As used in this chapter, unless the  
19 context clearly requires otherwise:

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



1 "Alternate physician" means a physician who assumes the  
2 responsibilities relinquished by an attending physician who  
3 declines or is unable to fulfill the responsibilities of an  
4 attending physician as required under section -31(a).

5 "Attending physician" means the physician who has primary  
6 responsibility for the care of a patient and treatment of the  
7 patient's terminal disease.

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

- 9 (1) A court; or
- 10 (2) The patient's attending physician or consulting  
11 physician, psychiatrist, or psychologist,  
12 a patient has the ability to make and communicate health care  
13 decisions to health care providers, including communication  
14 through persons familiar with the patient's manner of  
15 communicating if those persons are available.

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

19 "Counseling" means one or more consultations as necessary  
20 between a state licensed psychiatrist or psychologist and a  
21 patient for the purpose of determining that the patient is



1 capable and not suffering from a psychiatric or psychological  
2 disorder causing impaired judgment.

3 "Department" means the department of health.

4 "Health care facility" means:

5 (1) A hospital with an organized medical staff, with  
6 permanent facilities that include inpatient beds, and  
7 with medical services, including physician services  
8 and continuous nursing services under the supervision  
9 of registered nurses, to provide diagnosis and medical  
10 , or surgical treatment primarily for acutely ill  
11 patients and accident victims, or to provide treatment  
12 for the mentally ill or to provide treatment in  
13 special inpatient care facilities. For purposes of  
14 this definition, a "special inpatient care facility"  
15 is a facility with permanent inpatient beds and other  
16 facilities designed and used for special health care  
17 purposes, including: rehabilitation centers, college  
18 infirmaries, chiropractic facilities, facilities for  
19 the treatment of alcoholism or drug abuse, or  
20 inpatient care facilities, and any other establishment  
21 falling within a classification established by the



1 department, after determination of the need for that  
2 classification and the level and kind of health care  
3 appropriate for that classification; or

4 (2) A long-term care facility with permanent facilities  
5 that include inpatient beds, and with medical  
6 services, including nursing services but excluding  
7 surgical procedures except as may be permitted by the  
8 rules of the department, to provide treatment for two  
9 or more unrelated patients. The term "long-term care  
10 facility" includes:

11 (A) A skilled nursing facility, whether an  
12 institution or a distinct part of an institution,  
13 that is primarily engaged in providing to  
14 inpatients skilled nursing care and related  
15 services for patients who require medical or  
16 nursing care or rehabilitation services for the  
17 rehabilitation of injured, disabled, or sick  
18 persons; or

19 (B) An intermediate care facility that provides, on a  
20 regular basis, health-related care and services  
21 to individuals who do not require the degree of



1           care and treatment that a hospital or skilled  
2           nursing facility is designed to provide, but who,  
3           because of their mental or physical condition,  
4           require care and services above the level of room  
5           and board that can be made available to them only  
6           through institutional facilities.

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

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

14          "Informed decision" means a decision that is:

15          (1) Made by a qualified patient to request and obtain a  
16          prescription to end the patient's life in a humane and  
17          dignified manner;

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

19          (3) Made after being fully informed by the attending  
20          physician of:

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



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

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

12 "Patient" means a person who is under the care of a  
13 physician.

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

17 "Qualified patient" means a patient who:

- 18 (1) Is at least fifty years of age;
- 19 (2) Is capable;
- 20 (3) Is a resident of Hawaii in accordance with section
- 21 -40; and



1           (4) Has satisfied the requirements of this chapter to  
2           obtain a prescription for medication to end the  
3           patient's life in a humane and dignified manner.

4           "Terminal disease" means an incurable and irreversible  
5           disease that has been medically confirmed and will, within  
6           reasonable medical judgment, result in the patient's death  
7           within six months.

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

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

13          §   -21 **Who may initiate a written request for medication.**

14          (a) A qualified patient who has been determined by the  
15          attending physician or alternate physician and consulting  
16          physician to be suffering from a terminal disease, and who has  
17          voluntarily expressed the qualified patient's wish to die, may  
18          make a written request for medication for the purpose of ending  
19          the qualified patient's life in a humane and dignified manner in  
20          accordance with this chapter.





1 (b) No person shall qualify to request medication under  
2 this chapter solely because of age or disability.

3 (c) A request for medication under this chapter shall be  
4 invalid if made by a person who is:

- 5 (1) Less than fifty years of age;
- 6 (2) Not capable; or
- 7 (3) Suffering from a psychiatric or psychological disorder  
8 causing impaired judgment.

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

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

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





- 1           (1) Make the initial determination of whether a patient  
2           has a terminal disease, is capable, and has made the  
3           request voluntarily;
- 4           (2) Request that the patient demonstrate Hawaii residency  
5           pursuant to section     -40;
- 6           (3) To ensure that the patient is making an informed  
7           decision, inform the patient of:
- 8           (A) The patient's medical diagnosis;
- 9           (B) The patient's prognosis;
- 10          (C) The potential risks associated with taking the  
11          medication to be prescribed;
- 12          (D) The probable result of taking the medication to  
13          be prescribed; and
- 14          (E) The feasible alternatives, including comfort  
15          care, hospice care, and pain control;
- 16          (4) Refer the patient to a consulting physician for  
17          medical confirmation of the diagnosis and  
18          determination that the patient is capable and acting  
19          voluntarily;
- 20          (5) Refer the patient for counseling if appropriate  
21          pursuant to section     -33;



- 1           (6) Recommend that the patient notify next of kin;
- 2           (7) Counsel the patient about the importance of having
- 3           another person present when the patient takes the
- 4           medication prescribed pursuant to this chapter and of
- 5           not taking the medication in a public place;
- 6           (8) Inform the patient that the patient may rescind the
- 7           request, at any time and in any manner, and offer the
- 8           patient an opportunity, pursuant to section     -36, to
- 9           rescind at the end of the fifteen-day waiting period;
- 10          (9) Verify, immediately prior to writing the prescription
- 11          for medication under this chapter, that the patient is
- 12          making an informed decision;
- 13          (10) Fulfill the medical record documentation requirements
- 14          of section     -39;
- 15          (11) Ensure that all appropriate steps are carried out in
- 16          accordance with this chapter prior to writing a
- 17          prescription for medication to enable a qualified
- 18          patient to end the qualified patient's life in a
- 19          humane and dignified manner; and
- 20          (12) Either:



- 1 (A) Dispense medications directly, including  
2 ancillary medications, intended to facilitate the  
3 desired effect, to minimize the qualified  
4 patient's discomfort; provided the attending  
5 physician is registered as a dispensing physician  
6 with the Hawaii medical board, has a current Drug  
7 Enforcement Administration certificate, and  
8 complies with any applicable administrative rule;  
9 or
- 10 (B) With the qualified patient's written consent:
- 11 (i) Contact a pharmacist and inform the  
12 pharmacist of the prescription; and
- 13 (ii) Deliver the written prescription personally  
14 or by mail to the pharmacist, who shall  
15 dispense the medications either to the  
16 qualified patient, the attending physician,  
17 or an expressly identified agent of the  
18 qualified patient.
- 19 (b) Notwithstanding any other provision of law, the  
20 attending physician may sign the qualified patient's death  
21 certificate.



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

16           § -32 **Consulting physician confirmation.** Before a  
17 patient is deemed qualified under this chapter, the consulting  
18 physician shall examine the patient and the patient's relevant  
19 medical records and confirm in writing the attending physician's  
20 diagnosis that the patient is suffering from a terminal disease  
21 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 causing impaired judgment, any one of the  
11 physicians shall refer the patient for counseling. No  
12 medication to end a patient's life in a humane and dignified  
13 manner shall be prescribed until the person performing the  
14 counseling determines that the patient is not suffering from a  
15 psychiatric or psychological disorder causing impaired judgment.

16 § -34 **Informed decision.** No person shall receive a  
17 prescription for medication to end a patient's life in a humane  
18 and dignified manner unless the patient has made an informed  
19 decision. Immediately prior to writing a prescription for  
20 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's request shall  
7 not be denied because the qualified patient declines or is  
8 unable to notify next of kin.

9       §    -36 **Written and oral requests.** 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 make an  
12 oral request and a written request and shall reiterate the oral  
13 request to the qualified patient's attending or alternate  
14 physician no less than fifteen days after making the initial  
15 oral request. At the time the qualified patient makes a second  
16 oral request, the attending or alternate physician shall offer  
17 the qualified patient an opportunity to rescind the request.

18       §    -37 **Right to rescind request.** A qualified patient may  
19 rescind a request for medication pursuant to this chapter at any  
20 time and in any manner without regard to the qualified patient's  
21 mental state. No prescription for medication under this chapter





1 may be written without the attending or alternate physician  
2 offering the qualified patient an opportunity to rescind the  
3 request.

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

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

- 13 (1) All oral requests by the qualified patient for  
14 medication to end the qualified patient's life in a  
15 humane and dignified manner;
- 16 (2) All written requests by the qualified patient for  
17 medication to end the qualified patient's life in a  
18 humane and dignified manner;
- 19 (3) The attending physician's diagnosis, prognosis, and  
20 determination that the patient is capable, is acting  
21 voluntarily, and has made an informed decision and, if



1           necessary, the alternate physician's confirmation that  
2           the diagnosis has not changed and that the patient is  
3           capable, is acting voluntarily, has made an informed  
4           decision, and remains a qualified patient under this  
5           chapter;

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

9           (5) A report of the outcome and determinations made during  
10          counseling, if applicable;

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

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

20          (8) If applicable, a completed form reporting the actual  
21          administration of the medication to the qualified



1 patient, to be completed by a monitor who is required  
2 to be present at the event pursuant to section -41.

3 § -40 **Residency requirement.** Only requests made by  
4 Hawaii residents who have been domiciled or physically present  
5 in the State for a continuous period of at least six months  
6 prior to the time the initial oral request for medication to end  
7 the patient's life is made under this chapter shall be granted.

8 Factors establishing Hawaii residency include:

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

17 § -41 **Monitor required; form.** (a) A qualified patient  
18 shall designate a competent adult to act as a monitor and who  
19 shall be present at the time of actual administration of the  
20 medication to the qualified patient and shall witness the event.



1 The monitor shall have the power to act on behalf of the  
2 qualified patient to:

3 (1) Stop the administration of the medication if it has  
4 not yet been carried out; or

5 (2) Enlist medical assistance to attempt to reverse the  
6 effect of the medication if the medication has already  
7 been delivered,

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

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

14 § -42 Department requirements. (a) The department  
15 shall annually review a sample of records maintained pursuant to  
16 this chapter and shall require any health care provider upon  
17 dispensing medication pursuant to this chapter to file a copy of  
18 the dispensing record with the department.

19 (b) The department shall adopt rules pursuant to chapter  
20 91 to facilitate the collection of information regarding  
21 compliance with this chapter. Except as otherwise required by



1 law, the information collected shall not be a government record  
2 under chapter 92F and may not be made available for inspection  
3 by the public.

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

7 (d) Upon the filing of a death certificate under section  
8 338-9 of any qualified patient under this chapter, the  
9 department shall designate the cause of death as the underlying  
10 terminal disease or diseases as diagnosed under section  
11 -31(a)(1).

12 § -43 **Effect on construction of wills, contracts, and**  
13 **other agreements.** (a) No provision in a contract, will, or  
14 other agreement, whether written or oral, to the extent the  
15 provision would affect whether a qualified patient may make or  
16 rescind a request for medication to end the qualified patient's  
17 life in a humane and dignified manner, shall be valid.

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



1 to end the qualified patient's life in a humane and dignified  
2 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 qualified patient, for  
8 medication to end the qualified patient's life in a humane and  
9 dignified manner. A qualified patient's act of administering  
10 medication to end the qualified patient's life in a humane and  
11 dignified manner shall have no effect upon any life, health, or  
12 accident insurance or annuity policy issued in this State, and  
13 shall not be construed as a suicide for purposes of any life,  
14 health, or accident insurance or annuity policy issued in this  
15 State, including for 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; provided that a qualified patient may  
20 administer medication to end the qualified patient's own life in  
21 accordance with this chapter. Actions taken in accordance with



1 this chapter shall not, for any purpose, constitute suicide,  
2 assisted suicide, mercy killing, or homicide under the law.

3 **PART IV. IMMUNITIES AND LIABILITIES**

4 **§ -51 Immunities; basis for prohibiting health care**  
5 **provider or monitor from participation; notification;**  
6 **permissible sanctions.** (a) Except as provided in section

7 -52:

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



1           (3) No request by a qualified patient for or provision by  
2           an attending or alternate physician of medication in  
3           good faith compliance with this chapter shall  
4           constitute neglect for any purpose of law or provide  
5           the sole basis for the appointment of a guardian or  
6           conservator; and

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

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

20          (1) Notwithstanding any other provision of law, a health  
21          care provider may prohibit another health care





1 provider from participating in actions taken pursuant  
2 to this chapter on the premises of the prohibiting  
3 provider if the prohibiting provider has notified the  
4 health care provider of the prohibiting provider's  
5 policy regarding participation in actions taken  
6 pursuant to this chapter. Nothing in this paragraph  
7 shall prevent a health care provider from providing  
8 health care services to a qualified patient that does  
9 not constitute participation in actions taken pursuant  
10 to this chapter;

11 (2) Notwithstanding subsection (a), a health care provider  
12 may subject another health care provider to the  
13 sanctions stated in this paragraph if the sanctioning  
14 health care provider has notified the sanctioned  
15 provider prior to participation in actions taken  
16 pursuant to this chapter that it prohibits  
17 participation in actions taken pursuant to this  
18 chapter:

19 (A) Loss of privileges, loss of membership, or other  
20 sanction provided pursuant to the medical staff  
21 bylaws, policies, and procedures of the



1           sanctioning health care provider if the  
2           sanctioned provider is a member of the  
3           sanctioning health care provider's medical staff  
4           and participates in actions taken pursuant to  
5           this chapter while on the health care facility  
6           premises of the sanctioning health care provider,  
7           but not including the private medical office of a  
8           physician or other provider;

9           (B) Termination of lease or other property contract  
10           or other nonmonetary remedies provided by lease  
11           contract, not including loss or restriction of  
12           medical staff privileges or exclusion from a  
13           provider panel, if the sanctioned provider  
14           participates in actions taken pursuant to this  
15           chapter while on the premises of the sanctioning  
16           health care provider or on property that is owned  
17           by or under the direct control of the sanctioning  
18           health care provider; or

19           (C) Termination of contract or other nonmonetary  
20           remedies provided by contract if the sanctioned  
21           provider participates in actions taken pursuant



1 to this chapter while acting in the course and  
2 scope of the sanctioned provider's capacity as an  
3 employee or independent contractor of the  
4 sanctioning health care provider. Nothing in  
5 this subparagraph shall be construed to prevent:  
6 (i) A health care provider from participating in  
7 actions taken pursuant to this chapter while  
8 acting outside the course and scope of the  
9 provider's capacity as an employee or  
10 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 an  
15 employee or independent contractor of the  
16 sanctioning health care provider; and  
17 (3) A health care provider that imposes sanctions pursuant  
18 to paragraph (2) shall follow all due process and  
19 other procedures the sanctioning health care provider  
20 may have, including, at a minimum, reasonable notice  
21 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 actions taken  
7           pursuant to this chapter of the sanctioning health care  
8           provider's policy about participation in activities covered by  
9           this chapter.

10          "Participate in actions taken pursuant to this chapter":

11          (1) Means to perform the duties of an attending or  
12             alternate physician pursuant to section     -31, the  
13             consulting physician function pursuant to section  
14             -32, the counseling function pursuant to section  
15             -33, or the monitoring function pursuant to section  
16             -41;

17          (2) Shall not include:

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



- 1 (B) Providing information about this chapter to a
- 2 patient upon the request of the patient;
- 3 (C) Providing a patient, upon the request of the
- 4 patient, with a referral to another physician; or
- 5 (D) A qualified patient contracting with the
- 6 patient's attending or alternate physician and
- 7 consulting physician to act outside of the course
- 8 and scope of the health care provider's capacity
- 9 as an employee or independent contractor of the
- 10 sanctioning health care provider.

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

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

20 (e) Actions taken pursuant to this chapter shall not be  
21 grounds for revocation, limitation, suspension, or denial of



1 licenses under section 453-8, so long as the health care  
2 provider has complied fully with this chapter.

3       **§ -52 Liabilities.** (a) A person who, without  
4 authorization of the qualified patient, wilfully alters or  
5 forges a request for medication under this chapter, or conceals  
6 or destroys a rescission of that request, with the intent or  
7 effect of causing the qualified patient's death shall be guilty  
8 of a class A felony.

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

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

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

19       **§ -53 Claims by governmental entity for costs incurred.**  
20 Any governmental entity that incurs costs resulting from a  
21 person terminating the person's life pursuant to this chapter in



1 a public place shall have a claim against the estate of the  
2 person to recover costs and reasonable attorney fees related to  
3 enforcing the claim.

4 **PART V. FORM OF WRITTEN REQUEST**

5 **§ -61 Form of written request.** A written request for  
6 medication as authorized by this chapter shall be in  
7 substantially the following form:

8 **REQUEST FOR MEDICATION**

9 **TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER**

10 I, \_\_\_\_\_, am an individual of at least fifty years  
11 of age and of sound mind. I am suffering from \_\_\_\_\_,  
12 which my attending or alternate physician has determined is a  
13 terminal disease that has been medically confirmed by a  
14 consulting physician. I have been fully informed of my  
15 diagnosis, prognosis, the nature of medication to be prescribed  
16 and potential associated risks, the expected result, and the  
17 feasible alternatives, including comfort care, hospice care, and  
18 pain control.

19 I request that my attending or alternate physician prescribe  
20 medication that will end my life in a humane and dignified  
21 manner.



1 INITIAL ONE:

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

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

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

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

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

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

15 Signed: \_\_\_\_\_

16 Dated: \_\_\_\_\_

17 **DECLARATION OF WITNESSES**

18 We declare that the person signing this request:

19 (1) Is personally known to us or has provided proof of  
20 identity;

21 (2) Signed this request in our presence;





1 (3) Appears to be of sound mind and not under duress, fraud, or  
2 undue influence; and

3 (4) Is not a patient for whom either of us is the attending or  
4 alternate physician.

5 \_\_\_\_\_ Witness 1/Date

6 \_\_\_\_\_ Witness 2/Date

7 \_\_\_\_\_ Witness 3/Date

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

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

20 "§461- Compliance with death with dignity law.

21 Notwithstanding any law to the contrary, nothing in this chapter



1 shall be deemed to prohibit a registered pharmacist from  
2 dispensing medications to a qualified patient, the qualified  
3 patient's attending or alternate physician, or an expressly  
4 identified agent of the qualified patient for the purpose of  
5 ending the qualified patient's life in a humane and dignified  
6 manner, as provided in section -31(a)(12)(B)(ii)."

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

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

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

16 "(b) No policy of life insurance shall be delivered or  
17 issued for delivery in this State if it contains a provision  
18 [~~which~~] that excludes or restricts liability for death caused in  
19 a certain specified manner or occurring while the insured has a  
20 specified status, except that the policy may contain provisions



1 excluding or restricting coverage as specified therein in event  
2 of death under any one or more of the following circumstances:

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

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

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



# S.B. NO. 2373

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

2

INTRODUCED BY: *Ernie R. Brown*

*[Signature]*

*Russ E. Rahn*

*[Signature]*

*[Signature]*



# S.B. NO. 2373

**Report Title:**

Death with Dignity

**Description:**

Allows a terminally ill, competent adult of at least fifty years of age to get a lethal dose of medication to end life. Prohibits physicians and others from administering mercy killings, lethal injections, and active euthanasia. Requires a qualified patient's administration of medication to end life to not be construed as suicide for certain purposes. 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.*

