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# 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 that in 2018, the State  
2 passed the Our Care, Our Choice Act to ensure that all  
3 terminally ill individuals have access to the full-range of end-  
4 of-life care options. The Our Care, Our Choice Act allows  
5 mentally capable, terminally ill individuals with six months or  
6 less to live to voluntarily request and receive prescription  
7 medication that allows the person to die in a peaceful, humane,  
8 and dignified manner.

9           The legislature further finds that Hawaii's unique  
10 geography and the State's shortage of physicians create barriers  
11 to access for qualified terminally ill individuals. Finding a  
12 physician may be burdensome, especially for individuals on the  
13 neighbor islands. Hawaii gives advanced practice registered  
14 nurses full scope of practice licensure and an expansive scope  
15 of practice to physician assistants; however, they do not have  
16 authority to administer medical aid in dying, thereby further  
17 limiting access to care for many individuals. Furthermore,



1 evidence from other states that authorize medical-aid-in-dying  
2 demonstrates that even with full access to a supportive health  
3 care facility and providers, a high percentage of terminally ill  
4 individuals die while waiting to complete the regulatory  
5 requirements to qualify for medication under the respective  
6 state laws. Hawaii has the longest mandatory waiting period  
7 amongst all ten medical-aid-in-dying authorized states and the  
8 District of Columbia. Many patients are not surviving the  
9 mandatory twenty days.

10 The purpose of this Act is to amend the Our Care, Our  
11 Choice Act to:

12 (1) Authorize advanced practice registered nurses and  
13 physician assistants, in addition to physicians, to  
14 practice medical aid in dying in accordance with their  
15 scope of practice and prescribing authority;

16 (2) Authorize physician assistants and advanced practice  
17 registered nurses with a psychiatric or clinic nurse  
18 specialization, in addition to psychiatrists,  
19 psychologists, and clinical social workers, to provide  
20 counseling to a qualified patient;



- 1 (3) Reduce the mandatory waiting period between oral
- 2 requests from twenty days to fifteen days;
- 3 (4) Reduce the mandatory waiting period between a
- 4 qualified patient's initial oral request and the
- 5 provision of a prescription pursuant to section 327L-
- 6 4(a) (12), Hawaii Revised Statutes, from fifteen days
- 7 to ten days if more than ten business days pass
- 8 between the initial oral request and an appraisal of
- 9 the patient by the attending provider or consulting
- 10 provider;
- 11 (5) Provide an expedited pathway for terminally ill
- 12 qualified patients who are not expected to survive the
- 13 mandatory waiting period; and
- 14 (6) Prohibit the disclosure or discovery of information
- 15 collected or retained pursuant to incidental or
- 16 routine communication between the department of health
- 17 and qualified patients or providers.

18 SECTION 2. Section 327L-1, Hawaii Revised Statutes, is  
19 amended as follows:

20 1. By adding two new definitions to be appropriately  
21 inserted and to read:



1       ""Advanced practice registered nurse" means a registered  
2 nurse licensed to practice in the State who has met the  
3 qualifications of chapter 457 and who, because of advanced  
4 education and specialized clinical training, is authorized to  
5 assess, screen, diagnose, order, utilize, or perform medical,  
6 therapeutic, preventive, or corrective measures, including  
7 prescribing medication.

8       "Physician assistant" means a person licensed to practice  
9 medicine under the supervision of a physician or osteopathic  
10 physician, as required by section 453-5.3."

11       2. By amending the definition of "attending provider" to  
12 read:

13       ""Attending provider" means a physician licensed pursuant  
14 to chapter 453, an advanced practice registered nurse licensed  
15 pursuant to chapter 457, or a physician assistant licensed  
16 pursuant to section 453-5.3 who has responsibility for the care  
17 of the patient and treatment of the patient's terminal disease."

18       3. By amending the definitions of "consulting provider"  
19 and "counseling" to read:

20       ""Consulting provider" means a physician licensed pursuant  
21 to chapter 453 who is qualified by specialty or experience to

1 make a professional diagnosis and prognosis regarding the  
2 patient's disease[-], an advanced practice registered nurse  
3 licensed pursuant to chapter 457, who is qualified by specialty  
4 or experience to diagnose and prescribe medication or a  
5 physician assistant licensed pursuant to section 453-5.3.

6 "Counseling" means one or more consultations, which may be  
7 provided through telehealth, as necessary between a psychiatrist  
8 licensed under chapter 453, psychologist licensed under chapter  
9 465, [~~or~~] clinical social worker licensed pursuant to chapter  
10 467E, an advanced practice registered nurse with a psychiatric  
11 or clinical nurse specialization licensed under chapter 457, or  
12 a physician assistant licensed under section 453-5.3, and a  
13 patient for the purpose of determining that the patient is  
14 capable, and that the patient does not appear to be suffering  
15 from undertreatment or nontreatment of depression or other  
16 conditions, which may interfere with the patient's ability to  
17 make an informed decision pursuant to this chapter."

18 SECTION 3. Section 327L-2, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "~~[§]~~§327L-2~~[§]~~ **Oral and written requests for medication;**  
21 **initiated.** An adult who is capable, is a resident of the State,



1 and has been determined by an attending provider and consulting  
2 provider to be suffering from a terminal disease, and who has  
3 voluntarily expressed the adult's wish to die, may, pursuant to  
4 section 327L-9, submit:

5 (1) Two oral requests, a minimum of [~~twenty~~] fifteen days  
6 apart; and

7 (2) One written request,  
8 for a prescription that may be self-administered for the purpose  
9 of ending the adult's life in accordance with this chapter. The  
10 attending provider shall directly, and not through a designee,  
11 receive all three requests required pursuant to this section."

12 SECTION 4. Section 327L-9, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "[~~§~~§327L-9[~~§~~] **Written and oral requests.** To receive a  
15 prescription for medication that a qualified patient may self-  
16 administer to end the qualified patient's life pursuant to this  
17 chapter, a qualified patient shall have made an oral request and  
18 a written request, and reiterate the oral request to the  
19 qualified patient's attending provider not less than [~~twenty~~]  
20 fifteen days after making the initial oral request. At the time  
21 the qualified patient makes the second oral request, the



1 attending provider shall offer the qualified patient an  
2 opportunity to rescind the request."

3 SECTION 5. Section 327L-11, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "~~{}~~§327L-11~~{}~~ **Waiting periods.** (a) ~~Not~~ Except as  
6 otherwise provided in subsection (c), not less than ~~twenty~~  
7 fifteen days shall elapse between the qualified patient's  
8 initial oral request and the taking of steps to make available a  
9 prescription pursuant to section 327L-4(a) (12).

10 (b) Not less than forty-eight hours shall elapse between  
11 the qualified patient's written request and the taking of steps  
12 to make available a prescription pursuant to section 327L-  
13 4(a) (12).

14 (c) If more than ten business days have elapsed between  
15 the qualified patient's initial oral request and an appraisal of  
16 the qualified patient by the attending provider or between the  
17 referral of the qualified patient to a consulting provider and  
18 an appraisal by the consulting provider, then not less than ten  
19 days shall elapse between the qualified patient's initial oral  
20 request and the taking of steps to make available a prescription  
21 pursuant to section 327L-4(a) (12).



1        (d) If the qualified patient's attending provider attests  
 2 that the qualified patient will, within a reasonable medical  
 3 judgment, die within fifteen days after making the initial oral  
 4 request, the fifteen day waiting period shall be waived and the  
 5 qualified patient may reiterate the oral request to the  
 6 attending provider at any time after making the initial oral  
 7 request."

8        SECTION 6. Section 327L-14, Hawaii Revised Statutes, is  
 9 amended by amending subsection (c) to read as follows:

10        "(c) The department shall annually collect and review all  
 11 information submitted pursuant to this chapter. The information  
 12 collected shall be confidential and shall be collected in such a  
 13 manner that protects the privacy of all qualified patients, the  
 14 qualified patients' family, and any attending provider,  
 15 consulting provider, or counselor involved with a qualified  
 16 patient pursuant to this chapter. Information collected  
 17 pursuant to this ~~[section]~~ chapter by the department or retained  
 18 as the result of incidental or routine communication with  
 19 providers and qualified patients shall not be disclosed,  
 20 discoverable, or compelled to be produced in any civil,  
 21 criminal, administrative, or other proceeding."





1 SECTION 7. Section 327L-19, Hawaii Revised Statutes, is  
2 amended by amending subsection (e) to read as follows:

3 "(e) For the purposes of this section:

4 "Notify" means to deliver a separate statement in writing  
5 to a health care provider specifically informing the health care  
6 provider prior to the health care provider's participation in  
7 actions covered by this chapter of the health care facility's  
8 policy regarding participation in actions covered by this  
9 chapter.

10 "Participate in actions covered by this chapter" means to  
11 perform the duties of an attending provider pursuant to section  
12 327L-4, the consulting provider function pursuant to section  
13 327L-5, or the counseling referral function or counseling  
14 pursuant to section 327L-6. The term does not include:

- 15 (1) Making an initial determination that a patient has a  
16 terminal disease and informing the patient of the  
17 medical prognosis;
- 18 (2) Providing information about this chapter to a patient  
19 upon the request of the patient;
- 20 (3) Providing a patient, upon the request of the patient,  
21 with a referral to another [~~physician~~] provider; or



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

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

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

15 SECTION 10. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 11. This Act shall take effect on July 1, 2060.

18



**Report Title:**

Our Care, Our Choice Act; Advanced Practice Registered Nurses;  
Physician Assistants; Mandatory Waiting Period

**Description:**

Authorizes advanced practice registered nurses and physician assistants to practice medical aid in dying in accordance with their scope of practice and prescribing authority. Authorizes advanced practice registered nurses with psychiatric or clinical nurse specializations and physician assistants to provide counseling to a qualified patient. Reduces the mandatory waiting period between oral requests from twenty days to fifteen days. Reduces the mandatory waiting period between the initial oral request and the provision of a prescription from fifteen days to ten days if more than ten business days have passed between the initial oral request and an appraisal of the patient by the attending provider or counseling provider. Waives the mandatory waiting period for qualified patients not expected to survive the mandatory waiting period. Prohibits the disclosure or discovery of information collected or retained pursuant to incidental or routine communication between the department of health and qualified patients or providers. Effective 7/1/2060. (HD1)

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

