DAVID Y. IGE
GOVERNOR OF HAWAII

ELIZABETH A. CHAR, MD
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
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doh.testimony@doh.hawaii.gov

Testimony COMMENTING on HB1823 HD2 RELATING TO HEALTH.

SENATOR JARRETT KEOHOKALOLE, CHAIR
SENATE COMMITTEE ON HEALTH

Hearing Date: March 21, 2022 Room Number: Video & 225

Fiscal Implications: N/A.

Department Testimony: The role of the Department of Health (DOH) for chapter 327L, Hawaii Revised Statutes, or the "Our Care, Our Choice Act," is ministerial in function, which is to say that DOH's primary responsibility is the collection and dissemination of forms, data, and reports in aggregate, as required by law. DOH is compelled to collect data only on qualified patients who have followed through on every legally required step. As a result, DOH does not quantify the number of patients who expired prior to executing all the steps, however the anecdotal input from healthcare providers has been very consistent, that: 1) patients in rural communities struggle to find a participating provider (attending, consulting, and mental health), and 2) patients with grave health prognoses expire during the waiting period.

The department is in the process of evaluating forms for the collection period that ended on December 31, 2021. There are an estimated 70 patients who completed the medical aid in dying request process. In the 2020 annual report, there were 37 patients who qualified of which 32 ingested the medication causing their death. This is a consistent upward trend since enactment in 2019.

Offered Amendments: N/A.

Testimony of Sam Trad, Hawaiʻi State Director, Compassion & Choices
Supportive Testimony Regarding HB 1823 HD2
Senate Committee on Health

Good morning Chair Jarrett Keohokalole, Vice Chair Rosalyn H.Baker and Members of the Committee. My name is Sam Trad and I am the Hawaiʻi State Director for Compassion & Choices, the nation's oldest and largest nonprofit organization working to improve care, expand options and empower everyone to chart their own end-of-life journey.

Thank you for passing the Our Care, Our Choice Act, which has provided peace of mind to the terminally ill over the last three years it has been in effect; and thank you for your consideration of HB 1823 HD2. We are here today and pleased to offer our support for these crucial amendments to the Our Care, Our Choice Act.

This legislation is based on the suggested amendments the Department of Health has made to the legislature. One year into implementation of the Hawaiʻi Our Care, Our Choice Act, the Department of Health conducted an analysis of the implementation of the law by soliciting input from the medical community. A subsequent report to the legislature[1] found that while compassionately implemented, some of the well intentioned regulatory requirements outlined in the Act are creating unintended barriers and unnecessary burdens in care. Coupled with the state's well-known severe physician shortage, which has only worsened with the COVID-19 pandemic[2][3] and is especially dire on neighbor islands,[4][5] these collective barriers have made it very difficult for terminally ill patients seeking to access medical aid in dying. Unfortunately, many individuals died with needless suffering while attempting to navigate the process. In fact, we know from local healthcare systems that at least 21 eligible patients who wanted the option

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[1] Report to the Thirtieth Legislature, Our Care, Our Choice Act Annual Report, Reporting Period 2019, Hawaiʻi Department of Health. Accessed at: https://health.hawaii.gov/opppd/files/2020/06/2020-Annual-OCCOA-Report-1.pdf

[2] University of Hawaiʻi System Annual Report on Findings from the Hawaiʻi Physician Workforce Assessment Project, November 2021. Accessed at: https://www.ahec.hawaii.edu/workforce-page/

[3] Hawaiʻi doctor shortage worsens during pandemic, June 15, 2021. Accessed at: https://www.kitv.com/video/hawaii-doctor-shortage-worsens-during-pandemic/article_887db62f-c8ee-5f02-95b5-01d7102395b0.html

[4] Hawaiʻi's doctor shortage has worsened after the COVID-19 pandemic, Jan 7, 2021. Accessed at: https://www.khon2.com/coronavirus/hawaiis-doctor-shortage-has-worsened-after-covid-19-pandemic/

[5] Physician shortage takes a troubling turn for the worse, John A. Burns School of Medicine University of Hawaiʻi at Mānoa, September 10th, 2019. Accessed at: https://jabsom.hawaii.edu/hawaii-doctor-shortage-takes-a-troubling-turn-for-the-worse/

of medical aid in dying died during the mandatory waiting period, unable to have the peaceful end of life experience they wanted.[6]

Holding true to the intent of the Our Care, Our Choice Act - to ensure that all terminally ill individuals have access to the full range of end of-life care options - the bill before you seeks to ensure eligible patients can access medical aid in dying by amending the law to:

- Reduce the current mandatory minimum 20 day waiting period between oral requests to 15 days.
- Allow the attending provider the authority to waive the mandatory minimum waiting period if the eligible patient is unlikely to survive the waiting period (the patient must still go through the qualifying process).
- Allow qualified Advanced Practice Registered Nurses (APRNs) and Physician Assistants (PAs) to support patients in the option of medical aid in dying by acting as the attending provider, consulting provider and/or mental health counselor.

All of these amendments will reduce unnecessary burdens terminally ill Hawai'i residents face when trying to access medical aid in dying.

Expediting and/or reducing the mandatory minimum waiting period as they now do in Oregon, California and New Mexico

Hawai'i currently has the longest mandatory waiting period (20 days) between the first and second oral requests for medical aid in dying, of the 11 authorized U.S. jurisdictions. Hawai'i physicians have said that their eligible terminally ill patients are suffering terribly at the end of life and are not surviving the 20-day mandatory waiting period between oral requests.[7] Internal data from Kaiser Hawai'i and Hawai'i Pacific Health show that a significant number of eligible patients do not survive the long waiting period.

This experience matches what we have seen from data and experience throughout the other authorized jurisdictions which have less restrictive measures in place than currently exist in Hawai'i. In 2019, in response to the evidence compiled over 21 years of practice, the Oregon legislature amended its law in an attempt to find a better balance between safeguards

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[6] Susan Amina, NP, Kaiser HI, OCOCA panel on 1.13.21; Michelle Cantillo R.N., Advance Care Planning Coordinator, HPH, OCOCA panel on 1.13.21.

[7] 'Like a Christmas Present': Hawaii's Medical Aid in Dying Law Eased Patient's Anxiety, The Civil Beat, Jul 1, 2019. Accessed at: https://www.civilbeat.org/2019/07/a-palpable-sense-of-relief-hawaiis-medical-aid-in-dying-law-eased-patients-anxiety/

intended to protect patients and access to medical aid in dying. The amended law (SB579) gives doctors the ability to waive the current mandatory minimum 15-day waiting period between the two required oral requests and to waive the 48-hour waiting period after the required written request before the prescription can be provided, if they determine and attest that the patient is likely to die while waiting.[8] The similar amendment to the OCOCA before you now is a direct result of evidence and data in Hawaiʻi that clearly demonstrates the need for easier access for eligible terminally ill patients facing imminent death.[9]

Last year, California amended their waiting period from 15 days to 48 hours, because data from healthcare systems in California showed that approximately 30% of eligible patients who want medical aid in dying do not survive the minimum 15 day waiting period.[10] Additionally, New Mexico's medical aid-in-dying law, which went into effect last year, only requires one written request and one 48 hour waiting period between receiving and filling the prescription.[11]

<u>Expanding the Definition of Provider to include those who have it within their current scope of practice: Advanced Practice Registered Nurses (APRN) and Physician Assistants (PAs)</u>

- Hawaiʻi is one of 25 states that give advanced practice registered nurses (APRNs) authority to independently carry out all medical acts consistent with their education and training, including prescribing all forms of medication, including controlled substances.[12]
- Physician Assistants may perform all duties and responsibilities delegated to them by their supervising physician and within the scope of practice and prescribing authority for PAs under existing Hawaiʻi law.
- However, by not including APRNs and PAs within the definition of "provider," the Our Care, Our Choice Act unnecessarily prohibits them from providing high quality health care and support to patients who want the option of medical aid in dying. Amending the law to explicitly allow APRNs and PAs to participate as providers under the Our

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[8] Senate Bill 579, 80th Oregon Legislative Assembly--2019 Regular Session. Accessed at: https://olis.oregonlegislature.gov/liz/2019R1/Downloads/MeasureDocument/SB579

[9] Report to the Thirty-First Legislature, Our Care, Our Choice Act Annual Report, Reporting Period 2020, Hawaiʻi Department of Health. Accessed at: https://health.hawaii.gov/opppd/files/2021/06/2020-Annual-OCOCA-report-6.30.21.pdf

[10] Characterizing Kaiser Permanente Southern California's Experience With the California End of Life Option Act in the First Year of Implementation. JAMA Internal Medicine, H.Q. Nguyen, E.J. Gelman, T.A.Bush, J.S. Lee, M.H.Kanter (2018). Accessed at: https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2665731

[11] Elizabeth Whitefield End of Life Options Act, Ch. 24, art. 7C NMSA 1978. Accessed at: https://nmonesource.com/nmos/nmsa/en/item/4384/index.do#!b/a7C

[12] American Association of Nurse Practitioners, 2021 Nurse Practitioner State Practice Environment. Accessed at: https://storage.aanp.org/www/documents/advocacy/State-Practice-Environment.pdf

Care, Our Choice Act is generally consistent with their scope of practice and would help address the disparity in access to participating providers, particularly in rural areas and neighbor islands.

- For example, Ron Meadow, who lived on the Big Island, was terminally ill and eligible for the Our Care, Our Choice Act, spent his final weeks searching for a physician who would support him in the option of medical aid in dying, so he could end his suffering. Sadly, by the time he found a physician it was too late and Ron died in pain in exactly the way he did not want. Allowing APRNs and PAs to support patients in medical aid in dying will provide patients, like Ron, with more options to access this compassionate option.
- Additionally, other jurisdictions are recognizing that restricting the definition of "provider" to physicians for the purposes of medical aid in dying creates an unnecessary barrier to access. For example, in 2021 New Mexico passed aid-in-dying legislation authorizing APRNs and PAs to serve as either the attending or consulting provider.[13]

Every eligible patient who wants the peace of mind that the Our Care, Our Choice Act provides should be able to benefit from it no matter which island they live on. These smart amendments will remove barriers to patients, especially in rural areas and on neighbor islands, so that they can have the compassionate option of medical aid in dying. Thank you for your time and attention to this matter.

Sincerely,

Sam Trad
Hawai'i State Director
Compassion & Choices

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[13] Elizabeth Whitefield End of Life Options Act, Ch. 24, art. 7C NMSA 1978. Accessed at: https://nmonesource.com/nmos/nmsa/en/item/4384/index.do#!b/a7C

HB-1823-HD-2
Submitted on: 3/18/2022 12:44:07 PM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
AUBREY HAWK	Individual	Support	In Person

Comments:

I am a resident of rural Hawaii Island and I strongly support HB1823. In my role as a volunteer patient navigator I try to help terminally ill patients seeking to use the Our Care, Our Choice Act. Too many of them--mostly poor, rural residents not affiliated with a major healthcare system, have been denied this legal end-of-life option. This is either because they cannot find a doctor willing to assist them, or because they cannot survive Hawaii's needlessly long mandatory minimum waiting period—the longest in the nation. Allowing qualified APRNs to serve their patients seeking to use OCOCA, and shortening the waiting period, would do much to mitigate this dire inequity in end-of-life health care access.

HB-1823-HD-2
Submitted on: 3/18/2022 3:40:17 PM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Malachy Grange	Individual	Support	In Person

Comments:

Dear Committee Chair, Vice-Chair and Committee Members

HB 1823 corrects a deficit in the OUR CARE OUR CHOICE ACT. For the past 2 years access to Medical Aid in Dying had been used by many citizens of Hawaii who have a six months prognosis or less to live and who meet the strict criteria to use their autonomous right to end their life. Their moral compass brings them to this decision. This is the promise of OCOCA: to choose the place, time and manner of their dying with the support of family, friends and loved ones. It was planned to be a time of final acts of love, forgiveness, a time of celebration of life, and an acceptance of death in these most sacred of times.

However, because of the time frames of the process, patients dying before the journey can be completed, and the dearth of medical providers in Hawaii, the promise of the OCOCA has not been fulfilled for these patients and families. One can only imagine the devastation this brings.

Lengthening the time frames of the process to obtain the medications for MEDICAL AID IN DYING and allowing Advanced Practice Registered Nurses to take part in assessing and prescribing the medications will address this problem. Please pass this Bill.

March 21, 2022

Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair
Senate Committee on Health
Hawaii State Capitol
415 South Beretania
Honolulu, HI 96813

Thank you for considering HB 1823 HD2 which I strongly support.

This proposed legislation offers important amendments to the Our Care Our Choice Act (passed in 2018). These amendments are designed to improve access for all residents as well as improve the quality of life for many terminally ill patients who choose to access medical aid in dying.

HB 1823 HD2 improves the existing legislation by:

- Expanding access to the Our Care Our Choice Act by allowing Advanced Practice Registered Nurses (APRNs) and Physicians Assistants (PAs) to write prescriptions for medical aid in dying. This will help terminally ill individuals, particularly those who reside on neighbor islands and in rural locations better access to the law.
- Allowing consultations with APRNs who have psychiatric or clinic specialization and PA in addition to psychiatrists, psychologists and clinical social workers which is consistent with their scope of practice to provide counselling
- Waiving the mandatory waiting period if a patient is unlikely to survive the current wait called for in the statute. Statistics show that too many people die while counting the days to obtain their prescriptions.
- Reducing the barrier for individuals seeking medical aid in dying. Shortening the 20-day waiting period to 15 days between oral requests will alleviate a terminally ill persons' stress. Our current law is the longest waiting period of the ten authorized jurisdictions in the US.

I sincerely hope this committee will recommend passage of HB 1823 HD1 which will result in helping more people by providing peace of mind that if needed (and if they choose) they will be able to access the law.

Mahalo,

Mary Steiner

LATE

HB-1823-HD-2
Submitted on: 3/20/2022 2:39:53 PM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Becky Gardner	Individual	Support	In Person

Comments:

Testimony of the Board of Nursing

Before the
Senate Committee on Health
Monday, March 21, 2022
1:10 p.m.
Via Videoconference

On the following measure:
H.B. 1823, H.D. 2, RELATING TO HEALTH

Chair Keohokalole and Members of the Committee:

My name is Lee Ann Teshima, and I am the Executive Officer of the Board of Nursing (Board). The Board appreciates the intent and offers comments on this bill only with respect to advanced practice registered nurses (APRNs).

The purposes of this bill are to: (1) authorize advanced practice registered nurses and physician assistants to practice medical aid in dying or provide counseling to a qualified patient; (2) amend the mandatory waiting period between oral requests and the provision of a prescription ; and (3) prohibit the disclosure, discovery, or compelled production of information collected or retained pursuant to incidental or routine communication between DOH and qualified patients or providers

The Board appreciates the bill's intent to authorize APRNs to practice medical aid in dying in accordance with their scope of practice and prescribing authority. APRNs are recognized as primary care providers who may practice independently based on their practice specialty. An APRN's education and training include, but are not limited to, a graduate-level degree in nursing and national certification that is specific to the APRN's practice specialty, in accordance with nationally recognized standards of practice.

The Board also appreciates that this bill's definition of "counseling" includes both a "psychiatric mental health nurse practitioner, or clinical nurse specialist" to consult with a patient to determine whether the patient is capable of making an informed decision regarding ending the patient's life. There are four categories of APRNs (nurse practitioner, clinical nurse specialist, certified nurse midwife and certified registered nurse anesthetist), and nurse practitioners or clinical nurse specialists whose practice specialty is in psychiatric mental health may provide consultative services in psychiatric mental health.

Thank you for the opportunity to testify on this bill.

TESTIMONY IN OPPOSITION TO HB 1823 HD2

My name is Dr Craig Nakatsuka. I am in opposition to HB 1823 relating to the expansion of the Our Care Our Choice Act.

This bill seeks to: expand the scope of practice of nurse practitioners in medical aid in dying, expand the providers to provide counseling to a qualified patient, decrease the mandatory waiting period between oral requests, and waive any waiting period for those terminally ill individuals deemed unlikely to survive the waiting period.

The OCAC act was passed amidst concerns of abuse that could threaten the lives of the vulnerable, including the frail elderly and the disabled. Therefore, safeguards were put in place, including the mandatory waiting period for individuals to have time to receive hospice and palliative care services and receive the comprehensive support they need, including competent management of their pain. Also, the assessment for the critical piece of whether the individual making the decision was doing this not out of despair, depression, or coercion of any sort was to be done by the most qualified of providers: psychiatrists, psychologists, and clinical social workers. This bill seeking to expand the OCAC act raisers considerable concerns.

Firstly, there already has ample evidence that the professional MOST qualified to assess for assessment and treatment of depression is the psychiatrist. It has been shown that the prevalence of reversible depression in those with advanced illnesses and/or at end of life is around 40%. Yet, only 4-6% of those seeking medical aid in dying per the state of Oregon statistics were referred to a psychiatrist. If the current medical providers are so dramatically underdiagnosing treatable depression, this will only worsen if advanced practice nurses are allowed to assess for mental health.

2ndly, within this climate of increased depression and anxiety, there is therefore good reason for the current mandatory waiting period. This time of processing their decision and the support of good hospice care is absolutely valuable in making a final decision regarding their end of life wishes. This waiting period therefore should NOT be shortened.

Finally, waiving the mandatory waiting period for those who would not survive the remaining 2-3 weeks of their life is an oxymoron. As a recently retired hospice physician, I know first-hand that someone in this situation usually has lost a significant amount of their cognitive ability and are often confused and emotionally fragile. Having the cognitive and emotional stability for clear decisionmaking in this context is extremely unlikely and waiving the mandatory waiting period only serves as a gateway for abuse by others who want to prematurely end the person's life.

We are now in the midst of a prolonged pandemic where we have seen suicide rates, opiate overdoses, and alarming rates of mental health problems among individuals due to feelings of loneliness, isolation, and abandonment. Certainly this is no time to consider removing the safeguards that have been appropriately in place all this time.

Respectfully submitted,

C Nak

Craig Nakatsuka, MD

Hawai'i Association of Professional Nurses (HAPN)

HAWAII ASSOCIATION of
PROFESSIONAL NURSES

To: The Honorable Senator Jarrett Keohokalole, Chair of the Senate Committee on Health

From: Hawaii Association of Professional Nurses (HAPN)
Subject: HB1823 HD2 – Relating to Health

Hearing: March 21, 2022, 1:10p.m.

Aloha Senator Keohokalole, Chair; Senator Baker, Vice Chair, and Committee Members,

Thank you for the opportunity to submit testimony regarding HB1823 HD2. HAPN is in **strong Support** of placing choice in the hands of patients with whom we work every day, which includes patient choice in who their provider is when making a decision of this magnitude. We have reviewed the recommendations made by the Department of Health to include Advanced Practice Registered Nurses (APRN) to practice medical aid in dying in accordance with their scope of practice. We also support reducing the mandatory waiting period and allowing the provider to waive this waiting period as they deem appropriate after evaluation and discussion with the patient about their options.

This is a multi-professional bill working toward increasing access to care. This access to care has gotten worse over the years due to many reasons, but most notably the decline in the number of providers to improve access. Research for physicians and APRNs in Hawaii show that there will be even steeper declines in the number of providers to provide general access in the coming years.

We have reviewed the testimony from this year, last year, op-eds, from legislator communication (speeches, position statements, etc.), and from various people who have interest in this topic – it is clear, this is a controversial bill. We understand the need to develop a comprehensive APRN bill, but we know that this type of legislation would not be appropriate as part of any “clean up” bill as the House has requested in the past. What is clear is that our scope of practice allows us to evaluate, assess, manage/treat our patients. We are not asking for scope expansion, because we already have a clear scope of practice. We are asking for inclusion in this process that this bill allows to better serve our patients.

HAPN’s mission, to be the voice of APRNs in Hawaii, has been the guiding force that propelled us to spearhead the advancement of patients’ access to healthcare as well as supporting the recognition of the scope of practice for APRNs in Hawaii which led us to full practice authority. We have worked to improve the physical and mental health of our communities. As our ability to provide close care with our patients progressed, we also opened up our own clinics to provide the care our patients deserve. As a result, the current law requires that a patient remove themselves from the excellent care their APRN has provided them over the years to discuss this end-of-life option with physicians who may not have the same patient-provider relationship.

APRNs have played an important role in the healthcare of our communities, and we will continue to be by our patients’ side as they make many different healthcare decisions throughout their lives. There have been clear indications that patients on our rural islands have been having difficulty finding healthcare professionals to support them in their legal right:

https://www.hawaiitribune-herald.com/2020/11/15/opinion/aid-in-dying-shouldnt-be-this-difficult-in-east-hawaii/. We support the recommendations from our partners at the Department of Health in their assessment and evaluation of this issue.

Thank you for the opportunity to share the perspective of HAPN with your committee. Thank you for your enduring support of the nursing profession in the Aloha State.

Respectfully,
Dr. Jeremy Creekmore, APRN
HAPN President

Dr. Bradley Kuo, APRN
HAPN Legislative Committee, Chair
HAPN Past President

Testimony of the Hawaii Medical Board

Before the
Senate Committee on Health
Monday, March 21, 2022
1:10 p.m.
Via Videoconference

On the following measure:
H.B. 1823, H.D. 2, RELATING TO HEALTH

Chair Keohokalole and Members of the Committee:

My name is Ahlani Quiogue, and I am the Executive Officer of the Hawaii Medical Board (Board). The Board appreciates the intent and offers comments on this bill only with respect to physician assistants.

The purposes of this bill are to: (1) authorize advanced practice registered nurses and physician assistants to practice medical aid in dying or provide counseling to a qualified patient; (2) amend the mandatory waiting period between oral requests and the provision of a prescription; and (3) prohibit the disclosure, discovery, or compelled production of information collected or retained pursuant to incidental or routine communication between the Department of Health and qualified patients or providers.

The Board appreciates the bill’s intent to authorize physician assistants to practice medical aid in dying in accordance with their education, training, and scope of practice. The Board recognizes the important role physician assistants have in healthcare and believes this bill is a step in the right direction to serve the patients of Hawaii.

Thank you for the opportunity to testify on this bill.

HAWAIʻI PACIFIC HEALTH | KAPIʻOLANI PALI MOMI STRAUB WILCOX

Committee on Health
Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair

From: Michelle Cantillo, RN, Advance Care Planning Coordinator, Hawaiʻi Pacific Heath

RE: HB1823, HD2 Relating to Health –Medical Aid in Dying, Our Care, Our Choice Act. Authorizes advanced practice registered nurses and physician assistants to practice medical aid in dying or provide counseling to a qualified patient. Amends the mandatory waiting period between oral requests and the provision of a prescription.

I, Michelle Cantillo, RN, Advance Care Planning Coordinator representing Hawaii Pacific Health (HPH) am writing to express HPH support of HB1823, HD2. This bill allows more providers to voluntarily participate in medical aid in dying and will help terminally ill patients to grant their dying wishes as their time is limited.

Since January 1, 2019, there have only been a limited amount of physicians who are willing to be an attending physician for Medical Aid in Dying. At HPH, there are less than 15 physicians who are willing to participate in writing the aid-in-dying prescription! Currently this is one percent (1%) of physicians who are willing to be an attending physician at our 4 hospitals (1505 physicians on medical staff).

HPH providers have been educated on Medical Aid in Dying bill since this law passed and there are processes in place to help support patients and their physicians. However, as an Advance Care Planning nurse coordinator and only one percent of our physicians willing, it has been challenging for me and other nurse navigators or social workers to find physicians for our terminally ill patients. Department of Health has data that shows there is a shortage of physicians in primary care and specialty areas in Hawaii and especially outer islands. At HPH, 83% of patients requesting Medical Aid in Dying have cancer with metastases. Hawaii has a lack of oncologists on island and we have to use locum oncologists in Kaua'i. HPH is in the process of hiring however replacement takes a couple of months for their credentialing. We have no physicians willing to write the aid-in-dying prescription on Kaua'i, thankfully participating Oahu physicians can do telehealth for these outer island patients.

The current oncologists are stretched very thin and priority are given for new patient consults and ensuring all patients are able to be assessed in a reasonable time. For the few oncologists who do try to help qualified terminally ill patients, they have to fit them in their already busy schedules and have voiced concerns why there is a lack of support from other physicians. Department of Health data have shown that primarily the majority of attending physicians are located on Oahu and not outer islands.

HPH is thankful for the few Oahu participating physicians who will voluntarily consult if patient's current physicians are not willing to participate in the law. Many of the Advanced Practice Registered Nurses (APRN) at HPH have expressed their support for this bill. With training, our APRNs or PAs will continue to work closely with physicians and collaborate on how best to help support patients requesting medical aid in dying.

At HPH, many patients do not meet the 20 day window after their first oral request. In the past three years, 60 patients have completed their 1st oral request and 45 of those patients went on to complete their 2nd oral request. Many of these patients had a rapid decline and expired while waiting. HPH is in favor of waiving the mandatory waiting period and decrease the time from 20 days to 15 days. Our providers are very skilled at assessing their patients and can determine when it is appropriate to provide an expedited pathway for those qualified terminally ill patients who are not expected to survive the mandatory waiting period.

The state passed this law in 2018 to ensure that all terminally ill individuals will have access to the full-range of end-of-life options. Three years later, data has shown that the state of Hawaii needs to improve access. Let's make this law better for our dying patients.

HPH urges you to support HB1823, HD2. Thank you for the consideration of our testimony.

Mahalo,

Michelle Cantillo, RN, ACP Coordinator
Hawai'i Pacific Health
michelle.cantillo@hawaiipacifichealth.org
808-535-7874

HB-1823-HD-2
Submitted on: 3/19/2022 3:17:37 PM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Charles F Miller	Testifying for Hawaii Society of Clincal Oncology	Support	Remotely Via Zoom

Comments:

Chair Keohokalole and Vice Chair Baker,

I am a medical oncologist representing the Hawaii Society of Clinical Oncology, the largest organization of cancer specialists in the state and I also serve as Director of Kaiser Hawaii medical aid in dying(MAID) program. I have the most experience of any physician in the state with patients requesting MAID. I am writing to you today to urge your support of HB1823 which makes very necessary improvements to the Our Care, Our Choice Act(OCOCA). In my more than three years of seeing MAID requests, I have consulted on more than 125 patients. For some patients the law works well, but for many eligible, terminally ill patients the requirements of the law presents barriers that prevent them from accessing the law even though they meet all of the requirements.This causes them needless and very much unwanted suffering. We have data from the State Department of Health, Kaiser Hawaii and Hawaii Pacific Health that over 30% of patients who requested MAID died of their underlying medical conditions before completing the mandatory 20 day waiting period. Because of my experience with MAID I strongly believe that providers should be allowed to waive the waiting period if in their clinical assessment the patient will not survive 20 days and they meet all other requirements of the law. Hawaii has the longest waiting period of any of the jurisdictions that allow MAID and it is excusable that qualified patients die before being able to exercise their choice for their end of life. This is one of the problems this bill will address.

The other major obstacle to access to MAID is the worsening shortage of physicians. This shortage greatest impact on MAID is on the neighbor islands where it is often difficult to find two physicians to qualify the patient for MAID. This bill has a solution to this issue: Advanced Practice Registered Nurses(APRN's), also known as Nurse Practioners(NP's). These professionals are highly trained and already help fill the shortage gap in virtually all other areas of health care in the state. In fact, Hawaii is one of 22 states which give APRNs authority to independently carry out all aspects of medical practice consistent with their education and training, including prescribing all forms of medication. Yet as the OCOCA is currently written, APRNs are specifically prohibited from helping to close the provider shortages in this most crucial medical practice. The OCOCA limits their scope of practice, preventing them from supporting their patients who want the option of MAID.

In my personal and professional opinion, if even one qualified patient is forced to spend their final weeks of life in fear, pain and suffering unable to access the OCOCA, then that is one patient too many. Please provide the needed relief to terminally ill Hawaii residents and ensure everyone in the Aloha State is empowered to choose end of life care that reflects their values, priorities and beliefs.

Sincerely,

Charles F. Miller, MD, FACP, FASCO

Hawaii Society of Clinical Oncology

Program Director, Kaiser Hawaii Aid in Dying Program

HB-1823-HD-2

Submitted on: 3/18/2022 10:55:49 AM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Golojuch Jr	Testifying for Stonewall Caucus of the Democratic Party of Hawaii	Support	In Person

Comments:

Aloha Senators,

The Stonewall Caucus of the Democratic Party of Hawaiʻi (formerly the LGBT Caucus) Hawaiʻi's oldest and largest policy and political LGBTQIA+ focused organization fully supports HB 1823 HD 2.

We hope you all will support this important piece of legislation.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair and SCC Representative
Stonewall Caucus for the DPH

hawaii family forum

Submitted Online: March 19, 2022

HEARING: Monday, March 21, 2022

TO: Senate Committee on Health
Sen. Jarrett Keohokalole, Chair
Sen. Rosalyn Baker, Vice Chair
FROM: Eva Andrade, President

RE: Opposition to HB1823 HD2 Relating to Health

Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii. We oppose this bill that chips away at the safeguards that were put in place when the "Our Care, Our Choice" law went into effect. If this bill is passed, it will allow (1) Authorizes advanced practice registered nurses and physician assistants to practice medical aid in dying or provide counseling to a qualified patient, (2) amends the mandatory waiting period between oral requests and the provision of a prescription, and (3) prohibits the disclosure, discovery, or compelled production of information collected or retained pursuant to incidental or routine communication between DOH and qualified patients or providers.

Waiving the mandatory waiting period for qualified patients not expected to survive the mandatory waiting period is very dangerous. Doctors can only give their best professional "guess" on patient survival. What if they are wrong? Removing the original "safeguard" of the waiting period, we believe, would open the door to abuse and/or coercion. The 2021 Oregon report showed that 3.3% of patients outlived the prognosis[i].

We also have strong concerns regarding the Department of Health's request to stop the release or "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." While not unusual to protect identities of patients and even providers, we are leary of provisions that completely insulates the information from disclosure pursuant to a subpoena, for example. That is excessive. What happens if a patient's family believes a provider coerced a patient into requesting physician-assisted suicide or short-cut the process? Families would have few avenues to adequately investigate that under this provision.

We expressed our strong opposition when the Our Care Our Choice Act was passed in 2018 because we were (and still are) very concerned about abuse of the law, primarily against frail elders and other vulnerable patients. At that time, to alleviate our concerns, the introduction to the bill stated that the "rigorous safeguards will be the strongest of any state in the nation and will protect patients and their loved ones from any potential abuse[ii]." Therefore, we are disheartened to see that these safeguards are already being removed or modified.

Although there are those in the community that are receptive to the general concept of assisted suicide, we believe that when the public learns about the dangers of assisted suicide, especially for those who are poor, elderly, disabled, or without access to good medical care, their views shift against the practice. Rather than expand the law, we should continue to provide education on available access to palliative care and hospice services.

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[i] https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/year23.pdf (accessed 03/15/21)

[ii] https://www.capitol.hawaii.gov/session2018/bills/HB2739_HD1_.HTM

HB-1823-HD-2
Submitted on: 3/19/2022 8:41:10 AM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Mary Uyeda	Testifying for retired APRN nurse	Support	Written Testimony Only

Comments:

Mary M. Uyeda, retired APRN

To our Senate Health Committee, March 19, 2022

I support HB 1823 for its removal of access and timing barriers to our terminal residents on the neighbor islands, especially the Big Island…with one exception: I would delete PAs who do not have the extensive training of APRNs.

For example, the Big Island has one physician willing to give terminal patients their choice at end of life. It is known that the specific paperwork is cumbersome, let alone the timing issues of using this alternative but our patients are deeply grateful for having this law in Hawaii! However, we are still far behind the Oregon law which has addressed their barriers over the last 20+ years.

Let us join together and improve our law by removing the access barrier on the outer islands by including APRNs who will put in the time since most terminal patients would rather die at home - surrounded by the people who cared for them. In addition, please shorten the waiting period that a terminal patient has to endure in order to have their choice at end of life.

Help us improve the Our Care, Our Choice Act and pass HB 1823.

HB-1823-HD-2
Submitted on: 3/18/2022 11:17:05 AM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Jane E Arnold	Individual	Support	Written Testimony Only

Comments:

Please pass HB1823. Thank you.

HB-1823-HD-2
Submitted on: 3/18/2022 11:42:50 AM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Bob Grossmann, PhD	Individual	Support	Written Testimony Only

Comments:

The amendments will strengthen access to and improve timeliness of compassionate care.

HB-1823-HD-2
Submitted on: 3/18/2022 11:49:22 AM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Caryn Ireland	Individual	Support	Written Testimony Only

Comments:

Please vote YAY in support of these important updates to the Our Care, Our Choice Act. As someone who focuses on increasing awareness, education and support for Medical Aid in Dying, I have had the opportunity to work with such caring physicians, mental health professionals and pharmacists who have helped patients. However, with the physician shortages across the State of Hawaii, there are times when it has been very difficult for a patient to find a physician to help them with this end-of-life option. It is critical to add APRNs as an additional provider for this work.

In addition, there have been too many end-of-life patients who have not been able to make it through the required waiting period, which is so difficult for the patient and their family & friends. Please support the suggested improvements to lessen the waiting period.

Thank you for helping our residents of Hawaii who choose the Our Care, Our Choice Act.

HB-1823-HD-2
Submitted on: 3/18/2022 12:00:15 PM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Chelsea Domingcil	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

My name is Chelsea Domingcil and I am an APRN for Kaua'i Hospice. I would like to voice my opposition to the expansion of the APRN role for HB 1823. I am in agreement that the gaps in access to prescriptions of the medications are there but this burden should not be passed onto the APRN's of the state of Hawai`i.

I would also like to add that this bill is in direct opposition to the CMS's statement that only a physician can confirm that a physician has the ability to confirm a patient's terminal illness. According to CMS a physician must certify that a patient is deemed terminally ill and has a prognosis of 6 months or less "The certification should be based on the clinical judgment of the hospice medical director (or physician member of the interdisciplinary group (IDG), and the patient's attending physician, if he/she has one. Nurse practitioners and physician assistants cannot certify or recertify an individual is terminally ill."

https://www.cgsmedicare.com/hhh/coverage/coverage_guidelines/cert_recert_requirements.html

This determination in prognosis of 6 months or less is necessary for medications to be prescribed to patients who have a terminal diagnosis under this law. If I am unable to determine if a patient is terminally ill by CMS, why would I be able to prescribe the medications and certify that a patient is terminally ill by the state of Hawaii?

I have been a part of the care team for all of the patients who have completed this process on the island of Kaua`i and those who have gone on to receive the medications but elected not to take the medications. I believe that my role in hospice care is important at the end of life for all of these patients. However, I do not believe that the role of an APRN should be to prescribe the medications for medical aid in dying.

Mahalo for your time,

Chelsea Domingcil, APRN

HB-1823-HD-2
Submitted on: 3/18/2022 12:17:39 PM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Dara Carlin, M.A.	Individual	Oppose	Written Testimony Only

Comments:

On March 5, 2009 Jesus Christ appeared before visionary, Maureen Sweeney-Kyle, to relay (in part) the following message to all people and every nation:

"Beware of false religions that worship a non-god claiming to promote suicide, murder, terror and the subjugation of women. Such groups are not led by Heaven but by the powers of the netherworld. The One True God is a God of Love. Be united in love--Holy Love."

"I tell you the nation that summarily jeopardizes the welfare of its most marginalized citizens is the nation that will not survive any type of New World Order, but only fall more and more into disorder. If you will not come to the rescue of the unborn and lovingly, respectfully care for the elderly, then neither will I rescue you or care for you."

Recognize HB1823 HD2 for what it is, what it will do and the consequences *you* will bring upon us all for its passing, along with all other legislation supporting euthanasia and abortion that you support or vote into law.

Throughout history it's always the very ones scoffing at prophecy who are the ones most traumatized and horrified (because of their guilt) when such prophecies are fulfilled – I urge you to pay attention and heed these warnings instead of disregard them.

From April 30, 2021 - Once again, I (Maureen) see a Great Flame that I have come to know as the Heart of God the Father. He says:

"The state of the heart of the world reflects the state of the hearts of leaders around the world. If the leaders promote liberal attitudes, then whole nations will be governed according to liberalism. **The souls of leaders are judged according to the ways in which they handled their responsibility towards the people they represented while on earth**. If personal gain or a safe reputation took priority over their position and responsibility towards those they were chosen to govern, then in My Eyes they failed."

"**Those in government who support abortion are responsible for the murders of the children that have been taken as a result of their policies**. Knowing this, you can see why whole nations are not guided by righteousness. This is why I plead for prayers for anyone in a leadership role. The past is gone, but you can change the future if you pray now for misguided hearts."

Keeping you all in prayer ~

HB-1823-HD-2
Submitted on: 3/18/2022 12:43:49 PM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Carla Hess	Individual	Support	Written Testimony Only

Comments:

As a former Hospice Maui nurse, I feel strongly that this legislation is imperative to ensure choice and dignity at the end of life.

Thank you,

Carla Hess, B.S., B.A., BSN

HB-1823-HD-2
Submitted on: 3/18/2022 1:32:40 PM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Brian Goodyear	Individual	Support	Written Testimony Only

Comments:

Aloha Senators,

I am writing to express my strong support for HB1823 HD2 and to urge you to support passage of this bill. I am a clinical psychologist who conducts mental health consultations for terminally ill patients who have requested medical aid in dying.

Since the Our Care, Our Choice Act went into effect I have had the privilege of doing over 80 of these consultations, mostly for Kaiser patients. Based on my experience thus far, I believe that the Act is working as intended for the most part. All of the patients that I have seen have been grateful and relieved to have this option available in case their suffering becomes unbearable at some point. I have also been impressed by how acceptant these patients have been of the fact that they have only a very limited amount of time remaining in their lives.

There are, however, some changes that should be made to the legislation to address certain problems that have arisen for some patients who have requested medical aid in dying and have not been able to take full advantage of the current law. HB1823 HD2 directly addresses these problems.

One problem, particularly for patients on the neighbor islands and in rural areas of Oahu, is the shortage of physicians who are able to act as the attending or consulting provider. This mirrors the more general shortage of medical providers in these areas of the state. Allowing APRNs, who are well qualified to do so, to take on these roles would greatly help to alleviate this shortage.

The second problem is that some critically ill patients have been too ill to survive the 20 day waiting period. Two changes are in order to address this problem. The waiting period could safely be reduced to 15 days to bring the law in line with similar pieces of legislation in other jurisdictions. In addition, the attending provider should be allowed to waive the waiting period completely for patients who are not expected to survive the waiting period. Similar changes have already been enacted in Oregon and California, and are also being considered in other jurisdictions.

Mahalo for your support of these proposed changes.

Brian Goodyear, Ph.D.

2924 Alphonse Place

Honolulu, HI 96816

(808) 285-9393

bsgoodyear@aol.com

HB-1823-HD-2
Submitted on: 3/18/2022 4:10:06 PM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Bob Gahol	Individual	Support	Written Testimony Only

Comments:

I am submitting my written testimony in strong support of HB 1823 HD 2. In Hawaii, Advanced Practice Registered Nurses (APRNs) have completed the required education and board certification to practice independently. As licensed, independent practitioners, they practice autonomously and coordinate with health care professionals and other individuals. Due to the shortage of physicians in the state, especially in the neighboring islands, APRNs are extremely important in meeting the healthcare needs of our citizens. Therefore, they should also be given the authority to administer medical aid in dying, including counseling qualified patients. The passing of this bill promotes patient-centered care and will significantly assist patients and their families through the death and dying process. Thank you.

HB-1823-HD-2
Submitted on: 3/18/2022 4:32:35 PM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Carolann Biederman	Individual	Support	Written Testimony Only

Comments:

Aloha,

I strongly support this bill. The Our Care, Our Choice Act has been in effect for more than three years, yet many eligible terminally ill patients are having trouble accessing the law, causing needless suffering.

Health inequities in our state impact people in all communities. Please vote yes to insure that qualified patients are able to spend their final weeks without fear and pain. This bill will help ensure state residents have additional access to healthcare providers who are available on every island to support patients to choose end-of-life care that reflects their values, priorities, and beliefs.

With thanks and aloha, Carolann Biederman

HB-1823-HD-2
Submitted on: 3/18/2022 8:58:45 PM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Roxanne	Individual	Support	Written Testimony Only

Comments:

I am in support of this bill.

HB-1823-HD-2
Submitted on: 3/19/2022 7:49:12 AM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Kathleen M. Johnson	Individual	Support	Written Testimony Only

Comments:

My husband was the second resident of Hawaii to use MAID. Stephen T. Johnson. He was diagnosed with terminal prostate cancer in November 2018, told he would not live to see the summer, and all that he should expect as cancer killed him. He told the oncologist he would not live it out, he'd find a way to end his life. That Kaiser doctor advised the law was passed and effective January 1st. So the quest began January 2nd. The process needs to be smoother, easier access, less confusing and arbitrary delays. His life was already in limbo, on hold, full of stress and increased until he finally had the prescription in hand - having gone through all the hoops, delays and obstacles. I know some people are not as capable nor have the means and support that he did, it needs to be easier and quicker. The relief, almost joy, he had after flying from Kona to pick up the medication from a compound pharmacy in Kailua made him giddy, teasing and laughing with the taxi driver who did not see any reason for joy. But my hustand told that happy story many times. He lived 2 final months without stress or concern. But he lost those months between November and March to extreme stress and anxiety. We didn't understand then and I do not understand now who is being protected by delay protocols designed by the law. What does that achieve? Anything that smooths out the process, makes it more accessible, will only improve the quality of life and well being of a dying person, their family and friends. He drank the medication and died on May 5, 2019. Considering the whole story and all he and the family went through, he had a peaceful death with dignity, in control of his destiny. I certainly hope the prescription can be filled on all islands.

HB-1823-HD-2
Submitted on: 3/19/2022 2:27:23 PM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
stephanie marshall	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill without any reservation, As a registered nurse with a specialty in oncology for over 40 years, I recognize that these amendments clearly are needed to support the OCOCA law. As a retired nursing professor for UH Manoa School of Nursing, I know that APRNS can fulfill the role requested in this bill. Residents of Hawaii who choose this option need access to providers who will assist them.

I ask your support in passing this bill

I, Brenda Machosky, a 15-year resident of the State of Hawai`i, write in **full support of to HB1823.** My late husband, Dr. Joseph Herzog, DVM, was able to end the suffering at the end of his life under the existing “Our Care, Our Choice” law. Joe absolutely appreciated that he had this choice and that he was able to navigate the rules and regulations in order to exercise this right. He also believed there were still many obstacles for a sick and dying person to navigate in order to ascertain this right and die with dignity.

My husband testified in support of that law when it was under consideration, and I now continue his quest to support the choice for death with dignity and the ways in which the pending legislation increases **access to this right** for more people in the State of Hawai`i. Because of the existing legislation, my husband was able to stay at home in Kailua and not relocate for six months to another state – which is not even an option or idea for most people in Hawai`i. Joe was very much at peace with his decision and grateful to the Hawaii State Legislature for making his dying wish possible.

We had the means and the persistence to pursue death with dignity for my husband, who was diagnosed with terminal prostate cancer in March 2014 and died in April 2020. The major oncology group on O`ahu had just two doctors willing to fulfill the duties of the bill for a first and second consultation, and we were able to get on their schedules. We could afford the private-pay consultation with a mental health professional and the expensive drugs that were carefully compounded by a very supportive pharmacist.

One thing that became very clear during my husband’s illness was that not very many people are able to navigate the health care system effectively, and navigating the requirements to exercise a choice for death with dignity was just another example of this. In anticipation of logistical difficulties, as soon as he received a “less-than-six-months” diagnosis, Joe began the process, afraid that he would not have the medications when he wanted and needed them, and maybe had become too sick to pursue the necessary visits. We kept the medications in a lock box until he was ready, but he felt tremendous relief once the approval and acquisition process was completed, and he had the medications available.

Determining when he no longer wanted to suffer from the cancer and drugs ravaging his body was extremely important to Dr. Joe. One of his arguments was that as a veterinarian, he was able to relieve the suffering of animals in terminal pain. He strongly believed that people had a right to make their own determination about their end-of-life suffering. For over five years of his illness, Joe was able to work, to travel, and to enjoy life a good portion of the time. Once the bill was passed, he felt a tremendous relief that he would be able to choose when to end the painful suffering that was yet to begin. In the fall of 2019, that suffering began. He endured two clinical trials, but nothing worked, and his daily life was reduced to about an hour of “enjoyable” time under the influence of many narcotics but also their debilitating side effects. When he decided to exercise his right to die with dignity, he was absolutely comfortable with this decision and ready. He was able to say goodbye to everyone important to him by phone (at the start of COVID), and he ingested the medications at home, with favorite music and a slide show of friends playing, looking up at ‘Olomana from our back lanai, with his brother and me at his side. Despite being a sad moment, it was also a beautiful and peaceful one.

Not everyone chooses to end his (or her) life this way. For those who do, the process should have safeguards, as it does, but it should also be a realistically accessible option that does not have needless logistical obstacles. HB1823 removes needless obstacles for people who choose this option to end their own pain and suffering, when there is no longer hope of recovery or effective palliation.

Thank you for your consideration,

Brenda Machosky, Ph.D.

HB-1823-HD-2
Submitted on: 3/20/2022 9:18:27 AM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
David Gili	Individual	Support	Written Testimony Only

Comments:

Please support this important measure needed to improve access to end of life choices.

HB-1823-HD-2
Submitted on: 3/20/2022 11:11:11 AM
Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Caroline Kunitake	Individual	Support	Written Testimony Only

Comments:

Dear Chair Keohokalole, Vice Chair Baker and Committee on Health,

I am submitting testimony in support of HB1823 HD2.

I firmly believe that medical aid in dying needs to be accessible to more people, especially on the neighbor islands where there is a shortage of primary care physicians. It is not fair that someone who lives in a less populated county or district will be unable to access the current law on medical aid in dying because they are unable to find a physician (not a registered nurse practioner) willing to perform medical aid in dying. Nurse practioners, who take less time to train and have less school loans compared to physicians, will be able to provide medical aid in dying services once the laws are changed to expand their legal scope of practice.

Physician are reluctant to permanently live in rural areas due to lack of city amenities, competitive private schools for their children, social events and products/services that high earning professionals can afford in a big city. If a physician does not have relatives or a spouse with relatives in the rural area, they often feel socially isolated when living in a rural community.

Due to the shortage of physicians in rural areas, a new primary care physican who moves into the rural area may be reluctant to be responsible for a proportionately high patient case load with serious medical complications. In other words, this primary care doctor will be treating patients who have never received any medical care, have little to no access to medical specialists and/or no income to pay for drugs and medical treatments. Most physicans will choose to work with healthier, more affluent patients and earn more by moving to a city or moving to the mainland where the cost of living is lower.

I am originally from Hawaii County and I was so disappointed to learn that the residents of Hawaii County have a greater difficulty using the Our Care, Our Choice Act (OCOCA) law.

I found the following information below from the Kona Community Hospital website which links a news story from the Hawaii Tribune Herald from Feb. 14, 2021. See below:
https://kch.hhsc.org/news/hospitals-resist-our-care-our-choice-act/

The East Hawaii Region of the Hawaii Health Systems Corp., which includes Hilo Medical Center, does not participate in OCOCA-related services on its premises, according to a policy implemented in Feb. 2021. Those services include the duties required by providers under the law, prescribing or delivering aid-in-dying drugs; and prohibiting patients from self-administering the drug while a patient is in an East Hawaii Region facility. The Hilo Medical Center supports the OCOCA law, but lacks the resources to needed to fulfill all of the requirements of the OCOCA law.

In addition, other hospitals including the Queen's North Hawaii Community Hospital in Waimea (which is on the other side of the island from the district of Hilo) does not participate in the OCOCA-related services. Kona Community hospital does not participate in OCOCA by way of allowing the administration of end-of-life medications on the KCH campus.

Instead these hospitals refer patients to physicians who are willing to provide medical aid in dying treatment away from the hospital campus. Unfortunately, there are not enough primary care doctors especially in Hilo. While living in Hilo, I had so much difficulty finding a primary care physician willing to take a new patient. Most of the physician offices that I contacted in Hilo shared that I probably needed to wait over a year for a slot to open up. If you're lucky enough to even have a primary care doctor in Hilo, you need to cross your fingers that your physician is willing to provide medical aid in dying.

The University of Hawaii John A. Burns School of Medicine website (https://jabsom.hawaii.edu/report-finds-hawai%CA%BBi-physician-shortage-exacerbated-by-the-pandemic/) shows that the COVID-19 pandemic has increased the physician shortage on all of our counties. The update on January 2, 2021 reports that older physicians are opting for early retirement and COVID-19 has disrupted and shortened clinical operations. The statewide physician shortage remains between a range of 710 and 1,008.

Please exercise greater compassion for all who wish to use the medical aid in dying law. All of us will not escape death and we will end our lives from old age, sickness and/or death. Empowering terminally ill individuals with more control over their death does not diminish the right of others to live. I believe that HB1823 HD2 will provide greater mental ease and comfort to terminally ill individuals and their families. Please support HB 1823 HD2.

Mahalo,

Caroline Kunitake

LATE

TESTIMONY ON BEHALF OF HAWAII PSYCHIATRIC MEDICAL ASSOCIATION

To:	Chair Jarrett Keohokalole, Vice Chair Rosalyn Baker and Members of the Senate Committee on Health
From:	Dr. Denis Mee-Lee, Legislative Committee Chair, Hawaii Psychiatric Medical Association
Time:	1:10 pm., March 21, 2022
Re:	HB 1823, HD2
Position:	**COMMENTS**

Dear Chair Keohokalole, Vice Chair Baker and Members of the Committee on Health,

HPMA thanks the committee for the opportunity to offer comments on HB 1823, HD 2.

HPMA is a state medical organization whose physician members advocate for safe, quality care of our patients by those appropriately trained. HPMA represents more than 130 psychiatrists in Hawaii.

According to the Journal of the American Medical Association on Assisted Suicide in Washington and Oregon:

- A combined 3368 prescriptions were written in OR and WA, with 2558 patient deaths from lethal ingestion (76.0%). 27.6 were less than 65 years of age.
- Of the underlying illnesses reported, 261 (10.2%) were neurologic illnesses and (3.2%) were unknown; thus, 13.4% of patients were neurologic/ psychiatric/unknown patients.
- Time from drug intake to death ranged from 1- 6240 minutes 4 Days, 7 Hours, 59 Minutes
- Of the 2558 patients, rates of complications were reported for only 1557 (60.87%); the complication rate was unknown in the remaining 39.13%. unreported deaths.[1]

The Disability Rights Education and Defense Fund has documented numerous Oregon and Washington State Assisted Suicide Abuses and Complications including criminal convictions.[2]

We respectfully urge prudent restraint regarding expansion of Aid in Dying. If the Committee wishes to pass this measure, we respectfully request consideration of the following amendments to Hawaii Revised Statutes §327L-1 et. Seq., the Our Life, Our Choice Act, to protect our patients.

1. The first amendment would require that all participating providers to be both licensed and certified:

[§327L-1] Definitions."Consulting provider" means a physician licensed **[and certified]** pursuant to chapter 453 who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient's disease. "Counseling" means one or more consultations, which may be provided through Telehealth, as necessary between a psychiatrist licensed **[and certified]** under chapter 453, psychologist licensed **[and certified]** under chapter 465, or clinical social worker licensed **[and certified]** pursuant to chapter 467E and a patient for the purpose of determining that the patient is capable, and that the patient does not appear to be suffering from under treatment or no treatment of depression or other conditions which may interfere with the patient's ability to make an informed decision pursuant to this chapter.

2. The following amendment requires the prescribing provider to conduct an initial visit in-person. This is already a requirement for anyone prescribing opiates under the Hawai'i Prescription Drug Monitoring law. However, medications other than opiates are now also being used for aid-in-dying.

HRS§327L-4(a) - Attending provider; duties(1) Make the initial **[in-person]** determination of whether a patient has a terminal disease, is capable of medical decision-making, and has made the request for the prescription voluntarily.

3. The following amendment would require the participating provider to attest to knowledge of the mandatory reporting requirements and would allow for mandatory additional training or supervision of those who are noncompliant.

HRS§327L-12(7):A statement by the attending provider indicating that all requirements under this chapter have been met **[An attestation, under penalty of perjury, that the attending provider has met all requirements under this chapter]** and indicating the steps taken to carry out the request, including identification of the medication prescribed. [L 2018, c 2, pt of §3].

4. This amendment would allow the department to provide a pertinent licensing board with information necessary to the investigation of noncompliant providers.

[§327L-14](c) Reporting requirements.Information collected pursuant to this section by the department shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.

5. The following amendments would require the department to create standards for training in the recognition of mental illness, the evaluation of decision-making capacity, and detection of elder exploitation or abuse.

[§327L-14](e) On or before July 1, 2022, the department shall promulgate regulations for the training and **certification of**

licensed physicians, advanced practice registered nurses, clinical nurse specialists, physician assistants, psychologists, marriage and family therapists, and licensed clinical social workers who participate under the Act. The regulations shall specify that the individual is **trained to recognize signs and symptoms of mental illness, which affect decision-making capacity, as well as the assessment of coercion or undue influence, to include:**
(1) The vulnerability of the patient, including (A) incapacity and illness
(B) Intellectual disability or cognitive impairment (C) education(D) social isolation€ social dependency
(2) The nature of the patient's relationship with a primary caregiver, household members, or other influential individuals, including controlling access to the patient's daily needs and medication, interactions with others, access to needed information or services, and the use of affection, excessive persuasion, or intimidation to initiate changes in personal or property rights€ other factors relevant to the detection of elder exploitation or abuse (this should be especially important to the Kupuna Council).

6. The following amendment would require the department to annually compare PDMP prescriptions written under the act with mandatory reports submitted to the department, in order to detect noncompliant health care providers. Noncompliant providers would be referred to the pertinent licensing boards for investigation and additional education or discipline.

[§327L-14](f)The department shall annually compare reports submitted under this act to prescription data contained in the Hawaii Prescription Drug Monitoring Program per the requirements of §329-101 et. Seq. A licensed and certified provider who is found to be out of compliance with the reporting requirements of §327L-14 of this Act shall be in violation of the Hawaii Medical Practice Act §453-1 et. Seq. or the appropriate provider's licensure law.

7. This amendment creates a duty for both physicians and dispensing pharmacists to ensure that the patient receiving the prescription is a qualified patient. It would also require prescriptions—which would include compounded formulas of multiple medications—to be flagged and registered in the PDMP.

HRS§329-38 Prescriptions.(a)(2) No schedule II narcotic controlled substance may be prescribed or dispensed for more than a thirty-day supply, except where such substances come in a single unit dose package that exceeds the thirty-day

limit or where a terminally ill patient is certified by a physician to exceed the thirty-day limit;
[(A) The pharmacist shall record on the prescription document on file whether the medications are prescribed under the Our Care, Our Choice Act. Both the pharmacist and the prescribing provider have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient.]

HPMA thanks the Committees for the opportunity to testify on HB 1823 HD2, and urges restraint or amendments to protect our Kupuna and Hawaii's vulnerable patients.

1. https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2747692
2. https://dredf.org/public-policy/assisted-suicide/some-oregon-assisted-suicide-abuses-and-complications/

LATE

HB-1823-HD-2
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Testimony for HTH on 3/21/2022 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Rick Tabor	Individual	Support	Written Testimony Only

Comments:

To Whom It Concerns,

RE: Our Care, Our Choice;

I'm writing testimony, in strong support, as a concerned individual with five decades of mental health professional experience. Three of the six states I lived in passed a medical-aid-in-dying law, while I was working as a mental health professional and clinical casemanager (in Oregon and Washington) and after retiring from mental health Hawai'i passed Our Care, Our Choice.

Sadly, Hawai'i's medical-aid-in-dying was a year late for some of our family Kūpuna who talked about a desire to exercise the option in lieu of the end of life experience they feared and endured. And then I had a cancer tumor removed and lost two same-aged cousins to cancer. Those life and death experiences found me thinking about what Our Care, Our Choice means at a deeper level than before. Granted, the death with dignity decision is one of the most sensitive, soul searching, thought provoking decisions anyone can ever make. It's a decision most will hopefully never have to deal with. I still don't know what I'd do and think we won't know until we the time comes.

Any of us could be faced with end of life decisions at some pojntbin out lifetime. Hopefully the dignity option us there to support us, when we're discovering an awareness never before experienced, finding ourself, in deep soul searching thought, as we make our end of life decision, hoping for the peace of mind, the Our Care and Our Choice act dignifies us with. Let's make Our Care, Our Choice as helpful as the medical-aid-in-dying act is meantvto be, so people who are struggling with a terminal illness & their loved ones can experience the peace of mind Our Care, Our Choice act's medical-aid-in-dying option as it's intended to be. It's time to make two adjustments, thank you for allowing APRNs to assess and having the option to wave the twenty day wait period. That should be very helpful.

Granted, the end of life choice is an individual one that becomes a goal the terminally ill individual will focus on until accomplishing the required steps that are required to accomplish freeing them of the intense burden, anxiouness and concerns of an unbearable death. The peace of mind, knowing there's a peaceful option is often times what's needed to be able to breathe free of worry, spending one's last breaths, peacefully with the company of loved ones.

Sadly, Our Care, Our Choice, in it's current framework, lacks the equity needed for much of Hawai'i. Too few Primary Care Physicians and the twenty day wait period on top of all the necessary steps, creates too long a process for those many of our terminally ill to accomplish. This is why I strongly support APRNs as Our Care, Our Choice assessors, prescribers, and no waiting period as recommended by other states, the CDC and DOH.

Our Generations Magazine interviewed Compassion and Choice’s Sammantha Trad on 01.31.2021. We had a remarkable discussion. I know time is precious, but it’s worth the 47 minute listen at https://generations808.com/radio-tv/

Thank you for your time & consideration on such an important matter.

-Rick Tabor, Currently Retired & serving on 12 Kūpuna NPO’s. Mahalo Nui Loa

March 20, 2022

Honorable Chair Keohokalole, Vice Chair Baker, and Senate Committee on Health members,

I have practiced and taught full-time palliative medicine in Hawaii for over 17 years, and I am writing, as an individual, in **strong opposition to HB 1823.**

With barely three years' experience with the Our Care, Our Choice Act (OCOCA), this bill would take Hawaii from what was touted as the safest physician-assisted suicide legislation in the nation to the one most willing to sacrifice safety in the interests of streamlining the process.

- **Certification of a terminal prognosis is not within the scope of practice for Advanced Practice Registered Nurses (APRN's) or Physician Assistants (PA's).** APRN's are an essential component of any high-quality palliative care team. Personally, I am fortunate to work on a daily basis with the most skilled palliative care APRN's in the state. However, Medicare specifically prohibits APRN's and PA's from certifying 6-month prognosis for hospice (although they may serve as attending). This certification of six-month prognosis is an essential role of the attending and consulting physicians under the OCOCA. In addition, the Our Care, Our Choice Act, like all other legally accelerated death laws in the US, defines the attending provider as having "responsibility for the care of the patient and treatment of the patient's terminal disease." APRN's and PA's do not meet this definition in that they do not have responsibility for the treatment of cancer or the neurodegenerative, pulmonary or cardiac diseases that are the most common terminal illnesses affecting people that pursue legally accelerated death. Why would Hawaii consider it scope of practice for APRNs to certify terminal prognosis when the federal government does not? On what evidence is this based as being safe or appropriate care?

- **Waiving the waiting period for those not expected to survive the waiting period is clinically illogical and an invitation to fraud and abuse.** A physician can only reliably predict that a patient will only survive days and not weeks once the patient has entered the actively dying phase. Patients at this stage nearly always lack the ability to perform the cognitive and physical functions required to self-determine their care under the OCOCA. Passing this provision would open the door to abuse by authorizing patients that are unable to self-determine and self-administer the lethal drugs or abuse by physicians succumbing to pressure to expedite the process. While legally accelerated death is nearly always about controlling life's end, the idea of waiving waiting periods to hasten dying for people who are believed at high risk of dying too soon hardly seems worth any reduction in safety that may come from expediting the process.

I have no objections to two of the other provisions of HB 1823: shortening the waiting period to 15 days, consistent with the practice in other states, and the inclusion of psychiatric APRN's among the behavioral health consultants to confirm capacity. However, PA's lack the additional behavioral health training and expertise of psychiatric APRN's to fulfill the counseling function of the OCOCA.

Thank you for your thoughtful consideration as you weigh this serious matter, attempting to find the best balance between minimizing suffering for the less than 0.5% of people that typically access physician-assisted suicide while promoting safe and compassionate care for the 100% of us that will face the end of life.

Respectfully,

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