



STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony in SUPPORT of HB650 HD1
RELATING TO HEALTH.**

REP. DAVID TARNAS, CHAIR
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Hearing Date: February 24, 2023

Room Number: 325

1 **Fiscal Implications:** N/A.

2 **Department Testimony:** The role of the Department of Health (DOH) pursuant chapter 327L,
3 Hawaii Revised Statutes, or the "Our Care, Our Choice Act," is ministerial in function; the
4 primary activities for which are the collection and dissemination of forms, data, and reports in
5 aggregate. DOH is in the process of evaluating forms for the collection period that ended on
6 December 31, 2022. There are an estimated 90+ patients who completed the medical aid in dying
7 request process, which is consistent with the upward trend since enactment in 2019.

8 The total number of patients who expired prior to the final step is unknown because the data
9 collected are only for qualified patients who have completed the entire process,. However,
10 anecdotal information from participating providers has been consistent about the lack of provider
11 access in certain areas preventing patients from participating or diminishing their chances to
12 complete the medical aid in dying program. As such, a discussion on alternatives to certain
13 provider roles, based on nationally recognized standards of practice and assurances of
14 credentials, may be relevant, as well as a re-examination of waiting periods in light of the trend
15 in other jurisdictions, and absent documented cases of abuse, negligence, and malfeasance.

16 **Offered Amendments:** N/A.

17

Testimony of the Board of Nursing
Before the
House Committee on Judiciary and Hawaiian Affairs
Friday February 24, 2023
2:00 p.m.
Conference Room 325 and Videoconference

On the following measure:
H.B. 650, H.D. 1, RELATING TO HEALTH

Chair Tarnas and Members of the Committee:

My name is Chelsea Fukunaga, and I am the Executive Officer of the Board of Nursing (Board). The Board supports this bill and limits its testimony to the portions pertaining to the inclusion of advanced practice registered nurses (APRNs).

The purposes of this bill are to: (1) authorize APRNs 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) provide an expedited pathway for terminally ill qualified patients who are not expected to survive the mandatory waiting period.

The Board supports the bill's intent to remove barriers for the practice of APRNs and, more importantly, to provide greater access to health care for Hawaii residents, especially those who reside in rural areas or on the neighbor islands. APRNs are recognized as primary care providers who may practice independently based on their practice specialty.

The bill's inclusion of APRNs in the definitions of "attending provider" and "consulting provider" is aligned with an APRN's education, training, and scope of practice, who is qualified by specialty or experience to diagnose, treat, and provide a prognosis of a patient's terminal disease. As outlined below, Hawaii Administrative Rules section 16-89-81, sets forth an APRN's scope of practice, which includes, but is not limited to:

- The provision of direct care by utilizing advanced scientific knowledge, skills, nursing and related theories to assess, plan, and implement appropriate health and nursing care to patients;
- Manage the plan of care prescribed for the patient;

- Evaluate the physical and psychosocial health status of patients through a comprehensive health history and physical examination, or mental status examination, using skills of observation, inspection, palpation, percussion, and auscultation, and using diagnostic instruments or procedures that are basic to the clinical evaluation of physical, developmental, and psychological signs and symptoms;
- Order, interpret, or perform diagnostic, screening, and therapeutic examinations, tests and procedures;
- Formulate a diagnosis;
- Plan, implement, and evaluate care;
- Order or utilize medical, therapeutic, or corrective measures including, but not limited to, rehabilitation therapies, medical nutritional therapy, social services and psychological and other medical services;.

The Board also supports the inclusion of APRNs specializing in psychiatric mental health under the definition of “counseling” to determine whether the patient is capable of making an informed decision regarding ending the patient’s life.

Thank you for the opportunity to testify on this bill.



**Written Testimony Presented Before the
House Committee on Judiciary & Hawaiian Affairs
Friday, February 24, 2023 at 2:00 PM
Conference Room 325 and via Videoconference
by
Laura Reichhardt, MS, AGNP-C, APRN
Director, Hawai'i State Center for Nursing
University of Hawai'i at Mānoa**

Comments on H.B. 650, H.D. 1

Chair Tarnas, Vice Chair Takayama, and Members of the Committee on Judiciary & Hawaiian Affairs, thank you for the opportunity for the Hawai'i State Center for Nursing to provide **comments on H.B. 650, H.D. 1, only as it pertains to Section 2** of this measure which, if enacted, would enable Advanced Practice Registered Nurses (APRNs) to participate as an attending, consulting, and counseling provider in the Our Care, Our Choice Program.

Advanced Practice Registered Nurses have had a 75% increase in the number of in-state APRNs since 2011. Nearly 1,300 licensed APRNs reside in Hawai'i. APRNs are noted in national research to be more likely to provide care to underserved people and communities including rural areas, urban areas, to women, and to Medicaid recipients or uninsured people (Buerhaus et al., 2014). Currently, 30% residing on a Neighbor Island which also approximates with the percent of APRNs working in HSRA-designated primary care shortage areas and medically underserved areas (Hawai'i State Center for Nursing, 2021).

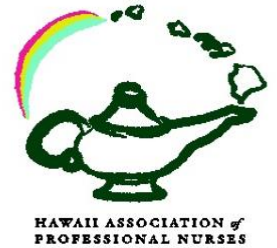
The National Conference of State Legislatures notes that Nurse Practitioners, which are the most common type of APRNs in our state, “are prepared through advanced graduate education and clinical training to provide a range of health services, including the diagnosis and management of common as well as complex medical conditions to people of all ages” ([scopeofpracticepolicy.org](https://www.nursingworld.org/scopeofpracticepolicy)). NCSL also notes that in Hawai'i, APRNs are provided practice authority to the full extent of their education and certification, prescriptive authority, and that APRNs are identified as primary care providers.

Hawai'i adopted the national best practices for APRN regulation, the APRN Consensus Model (2008), which states that licensure, accreditation, and certification, combined, provide guidance on the APRN's scope of practice. Hawai'i's laws for APRNs ensure public safety during patient care through, authorize assessment, diagnosis, and prescriptive authority. APRNs have grown significantly in Hawai'i, with APRNs providing care in all regions in the state where people live.

Thank you for the opportunity to provide this information as it relates to your decision making on this measure.

The mission of the Hawai'i State Center for Nursing is that through collaborative partnerships, the Center provides accurate nursing workforce data for planning, disseminates nursing knowledge to support excellence in practice and leadership development, promotes a diverse workforce, and advocates for sound health policy to serve the changing health care needs of the people of Hawai'i.

Hawai'i Association of Professional Nurses (HAPN)



To: The Honorable Representative David Tarnas, Chair of the
House Committee on Judiciary & Hawaiian Affairs

From: Hawaii Association of Professional Nurses (HAPN)

Subject: HB650 HD1 – Relating to Health, in strong Support

Hearing: February 24, 2023, 2p.m.

Aloha Representative Tarnas, Chair; Representative Takayama, Vice Chair; and Committee Members,

Thank you for the opportunity to submit testimony regarding HB650 HD1. HAPN is in **strong Support** of placing choice in the hands of patients with whom we work every day. This 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 in years past to include Advanced Practice Registered Nurses (APRN) to practice medical aid in dying in accordance with our scope of practice.

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.

In other committee hearings, there has been questions regarding APRNs and if we can certify for hospice. Prognostication is not exact and as a result, should a patient live beyond 6 months in hospice care, CMS allows APRNs to recertify patients for hospice. Currently there is a bill in the federal congress that is working toward changing this (allowing APRNs to certify for hospice from the start) among other areas of need where APRNs can make a difference. Here is the announcement from AANP: <https://www.aanp.org/news-feed/aanp-applauds-senate-introduction-of-ican-act>

We have reviewed the testimony from past years, op-eds, from legislator communication (speeches, position statements, etc.), and from various people throughout all walks of life. What is clear is that our scope of practice allows us to evaluate, assess, and manage/treat our patients. 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. 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, if they can find one, 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 physicians to support them with their legal right. We support the recommendations to include APRNs in this law, from our partners at the Department of Health in their previous 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 Sara Manns, Hawai'i State Manager, Compassion & Choices
Supportive Testimony Regarding HB 650

Greetings Chair Tarnas, Vice Chair Takayama, and Members of the Committee. My name is Sara Manns and I am the Hawai'i State Manager for Compassion & Choices, the nation's oldest and largest consumer-based nonprofit organization working to improve care, expand options and empower everyone to chart their own end-of-life journey.

Thank you for authorizing the Our Care, Our Choice Act (OCOCA) in 2018, which has provided peace of mind to the terminally ill since it has been in effect; and thank you for your consideration of HB 650. We are here today and pleased to offer our support for these crucial improvements to the Our Care, Our Choice Act.

For the last four years, the Department of Health has collected data and held two summits with providers who have supported patients under the Our Care, Our Choice Act. Since the first year the law was in effect, the Department of Health has repeatedly recommended removing unnecessary roadblocks in the law, so that all eligible patients can access this compassionate option of medical aid in dying. Findings from the annual reports¹ indicate that, while the OCOCA works for people who can access it, doctors, patients and families agree that too many dying people face unnecessary barriers preventing them from accessing this compassionate end of life option.

We know from local healthcare systems that approximately 1 in 4 terminally ill people who request medical aid in dying don't survive the 20 day mandatory minimum waiting period.²

Coupled with the state's well-known severe physician shortage, which has only worsened with the COVID-19 pandemic³⁴ and is especially dire on neighbor islands,⁵⁶ these collective barriers

¹ Hawaii Department of Health 2021 Our Care Our Choice Annual Report, available from: <https://health.hawaii.gov/opppd/files/2022/07/corrected-MAID-2021-Annual-Report.pdf>

² 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.

³ University of Hawai'i System Annual Report on Findings from the Hawai'i Physician Workforce Assessment Project, November 2021. Accessed at: <https://www.ahec.hawaii.edu/workforce-page/>

⁴ Hawai'i 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

⁵ Hawai'i'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/>

⁶ Physician shortage takes a troubling turn for the worse, John A. Burns School of Medicine University of Hawai'i at Mānoa, September 10th, 2019. Accessed at: <https://jabsom.hawaii.edu/hawaii-doctor-shortage-takes-a-troubling-turn-for-the-worse/>

have made it very difficult for all potentially eligible terminally ill patients to access medical aid in dying. Unfortunately, many individuals died with needless suffering while attempting to navigate the process.

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 terminally ill patients can access medical aid in dying by improving the law to:

- Reduce the current mandatory minimum 20 day waiting period between oral requests to 5 days.
- Allow the attending provider 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) to support patients in the option of medical aid in dying by acting as the attending provider, consulting provider and/or mental health counselor as is within their existing scope of practice.

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 protracted 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

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 also 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 Hawai'i that clearly demonstrates the need for easier access for eligible terminally ill patients facing imminent death.⁹

In 2021, 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 in 2021 only requires one written request and one 48 hour waiting period between receiving and filling the prescription.¹¹

Expanding the Definition of Provider to include those who have it within their current scope of practice: Advanced Practice Registered Nurses (APRN)

- Hawai'i is one of 25 jurisdictions 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
- However, by not including APRNs within the definition of "provider," the Our Care, Our Choice Act unnecessarily prohibits APRNs 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 to participate as providers under the Our 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

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

⁹ Hawaii Department of Health 2021 Our Care Our Choice Annual Report, available from: <https://health.hawaii.gov/opppd/files/2022/07/corrected-MAID-2021-Annual-Report.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>

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, exactly as he had feared he would.. Allowing APRNs 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 nurse practitioners (APRNs) 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 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,



Sara Manns
Hawai'i State Manager
Compassion & Choices

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>

Testimony of Sam Trad, National Director of Care Advocacy, Compassion & Choices
Supportive Testimony Regarding HB 650

Dear Chair David A. Tarnas, Vice Chair Gregg Takayama, and Members of the Committee,

My name is Sam Trad and I am the National Director of Care Advocacy for Compassion & Choices. Formerly, I was the Hawai'i State Director when the Our Care, Our Choice Act (OCOCA) was authorized in 2018. I am forever grateful to everyone who helped pass the Our Care, Our Choice Act. Thank you! I have been part of the implementation process since then.

The Our Care, Our Choice Act was modeled after the first medical aid in dying law in Oregon, which went into effect 25 years ago. Since then, we have learned that while the law works well for those who can access it, there are barriers that prevent access for all eligible dying people. Removing barriers helps fulfill the intention of the Our Care, Our Choice Act which is that all eligible dying people will have access to the option of medical aid in dying.

Currently, the OCOCA has [17 steps](#) in it that a terminally ill person must complete in order to get a prescription for medical aid in dying, including one step that is a 20 day mandatory minimum waiting period. 20 days is often far more than a dying person has left when they initially request medical aid in dying to ease their suffering. That is why we strongly recommend reducing the waiting period from 20 days down to 5 days between the oral requests..

This bill will keep all 17 steps in place, but with a reduced waiting period and allowing Advanced Practice Registered Nurses (APRNs)s to participate in the law, a dying person who wants the compassionate option of medical aid in dying will face less barriers to access. .

The proposed amendments keep intact the same basic eligibility requirements and core safeguards that have always protected vulnerable patients. Adults must have a terminal illness with 6 months or less to live, be mentally capable, and be able to self-administer the medication. This law does not allow healthcare providers, family, or anyone else, including the dying person to administer the medication by IV injection or infusion. A person cannot qualify for medical aid in dying solely because of advanced age, disability and chronic health conditions..

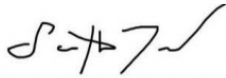
When a person is terminally ill, they usually do not ask for medical aid in dying until they need it. It takes weeks to months for many patients to get through the 17-step process even without the waiting period. Terminally ill patients do not have the luxury of time on their side. They do not have time to wait for 20+ days to get through the 17

steps to access the law. It can be impossible to make doctor appointments, especially the three needed to access the law. Including APRNs will make it easier for patients to get the appointments they need in order to qualify for the law. They will still need to be seen by 3 different clinicians before they can qualify for medical aid in dying.

We continue to get calls from dying people and their loved ones, who are desperate to access the law, but are all too often unable to and die in exactly the way they did not want. With your support, these improvements that are recommended by the Department of Health will go a long way in improving access to the Our Care, Our Choice Act.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Trad', with a stylized flourish at the end.

Sam Trad
National Director of Care Advocacy
Compassion & Choices

HB-650-HD-1

Submitted on: 2/23/2023 11:39:52 AM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
AUBREY HAWK	Compassion & Choices Hawaii	Support	In Person

Comments:

I am a resident of rural Hawaii Island and I strongly support HB650. 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 have been denied this legal end-of-life option, either because they cannot find a provider willing to assist them, or because they cannot survive Hawaii’s needlessly long mandatory minimum waiting period—the longest in the nation.

Without exception, these suffering, dying patients have given the matter serious and well-informed consideration. They do not enter the decision lightly. They do not need to be forced to wait three weeks between two separate oral requests.

Yet incredibly, these patients could even be considered the lucky ones. If they’ve made it to the waiting period portion of the process, that means they have at least found a provider willing to help them. Countless others are denied even that, due to Hawaii’s severe doctor shortage. APRNs with prescriptive authority are already acting as primary care providers in rural areas. They are perhaps even more qualified to deal with the nuances of good end-of-life care than MDs who are currently the only providers allowed to prescribe under the law. Please support HB650 with your YES vote.

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. David A. Tarnas, Chair

Rep. Gregg Takayama, Vice Chair

Date: 2/23/2023

From: Testimony of Michelle Cantillo, RN, Advance Care Planning Coordinator
representing Hawaii Pacific Health

Re: Supportive Testimony Regarding HB650, HB1

Allowing advanced practice registered nurses (APRN) to have prescriptive authority to be OCOCA attending and consulting providers and having psychiatric nurse practitioners to be counseling providers within their scope of practice. Allowing attending providers to waive the mandatory waiting period if the patient is unlikely to survive the waiting period and reducing the mandatory 20-day waiting period between oral requests to five days.

As a Registered Nurse (RN) and Advance Care Planning (ACP) Coordinator at Hawai'i Pacific Health (HPH), I am involved with patients requests for Medical Aid in Dying (MAiD), OCOCA and collect all the data since January 1, 2019. At HPH we support patients request by seeking out providers that are willing to participate either as attending or consulting physician. Our team helps to educate the patient, their family as well as the patient's medical team on MAiD, OCOCA. On behalf of HPH, I am writing to express HPH support of amending SB 442. This bill will allow more providers to voluntarily participate in MAiD, OCOCA and will help terminally ill patients by granting their dying wishes as their time is limited.

Since January 1, 2019, there are a limited number of physicians who are willing to be an attending physician for MAiD, OCOCA. At HPH, there are only 1.5% of physicians willing to write the aid-in-dying prescription.

HPH providers have been educated on MAiD, OCOCA bill since this law passed and there are processes in place to help support patients and physicians in the clinics. When a patient request to start the MAiD, OCOCA process they are often very hesitant about asking their patients about the law because of the fear of rejection. As an ACP nurse coordinator, either I or a social worker will reach out to physicians to see if they will consent to participate. There is hesitation and they have shared they are not comfortable in writing the MAiD prescription however are more willing to be the consulting physician. This is their choice. There is a shortage of physicians in primary care and specialty areas in Hawaii and especially outer islands thereby having the bill

extend out to APRNs will give more opportunity for our terminally ill patients wanting to use this end-of-life option and having peace of mind.

82% of patients requesting MAiD, OCOCA are patients with metastatic cancer. The current oncologists are stretched very thin, and priority are given for new patient consults and ensuring all patients are seen within in a reasonable time. For the few oncologists who do try to help qualified MAiD terminally ill patients, they work thru their breaks and lunches to help these patients. Many attending physicians have voiced concerns and would like more support from their colleagues and would welcome having their APRNs to have this authority.

HPH is thankful for the few participating physicians who have voluntarily consulted if the patient's current physicians are not willing to participate in the law. APRNs at HPH have expressed their support for this bill. With training, our APRNs will continue to collaborate with their immediate physicians on how best to help support patients request.

For the past 4 years, since the law has been in effect, 27% of terminally ill patients did not meet the 20-day window after their first oral request and expired while waiting. This law gives our patients "peace of mind" to have this end-of-life option. HPH is in favor of waiving the mandatory waiting period and decrease the time from 20 days to 5 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. Four years later, data has shown that the state of Hawaii needs to improve access. Let us make this law better for our dying patients of Hawaii. Let us support and honor patient wishes.

HPH urges you to support HB650, HB1. Thank you for the consideration of our testimony.

Mahalo,

Michelle Cantillo, RN

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

HB-650-HD-1

Submitted on: 2/22/2023 10:25:55 AM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Golojuch Jr	Stonewall Caucus of the Democratic Party of Hawaii	Support	Remotely Via Zoom

Comments:

Aloha Representatives,

The Stonewall Caucus of the Democratic Party of Hawai‘i; Hawai‘i’s oldest and largest policy and political LGBTQIA+ focused organization fully supports HB 650 HD 1.

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

HB-650-HD-1

Submitted on: 2/22/2023 8:44:20 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Charles F Miller	Hawaii Society of Clinical Oncology	Support	Written Testimony Only

Comments:

Good Afternoon Chair Tarnas, Vice Chair Takayama - I am writing in strong support for HB650. I am an oncologist representing the Hawaii Society of Clinical Oncology, having been on their Board of Directors for over 20 years. In addition I have been the Director of Kaiser Hawaii's Medical Aid In Dying (MAID) Program since the law was first implemented in January 2019. During the past four years I have served as the attending physician for over 140 patients who requested aid in dying. While the original Our Care, Our Choice Act (OCOCA) works for many patients, it is clear from my personal experience that there are significant barriers to allowing all patients who request use of the law.

First, fully 30% of the patients that I saw over the past four years were unable to complete the 20 day waiting period. They died in exactly the way they were trying to avoid by being unable to access the law.

This issue has been recognized in other states that have MAID laws and several jurisdictions have not only shortened their waiting periods but also allow the attending physician to waive the waiting period if in their clinical judgment the patient will not survive the wait. HB650 will remove this barrier to access and allow many more patients who request MAID to use this option.

Second, in the past four years access to the law has been very limited on the neighbor islands. This is due in part to Hawaii's severe shortage of physicians but also due to the fact that many physicians have opted out of participating in the OCOCA. By permitting fully licensed, accredited and qualified Advanced Practice Nurse Practitioners (APRNs) to serve as attending, consulting and mental health providers much of the access disparity on neighbor islands would be alleviated. It is inherently unfair to disadvantage patients who live outside of Oahu when they request MAID. APRNs are fully licensed for independent practice in Hawaii. Allowing them to fully participate in the OCOCA does not represent any expansion of their scope of practice.

Third, I must comment on recent testimony submitted by the Hawaii Medical Association on the companion bill to this one, SB442. The HMA's recommendations would do nothing but make it harder for terminal patients to access the OCOCA, by inserting additional and unnecessary requirements for the mental health evaluation of these patients. I strongly urge the committee to NOT consider any of the recommendations proposed by the HMA with regard to either HB650 or SB442.

I believe I have more experience with the OCOCA than any other physician in the state and strongly believe HB650 will improve access to the law and remove these major barriers to full and equal access for all of Hawaii's citizens who seek to use the OCOCA.

Charles F Testifying for Hawaii Society of Clinical Support Written Miller Oncology Testimony

Charles F. Miller, MD, FACP, FASCO

Director, Kaiser Hawaii's Medical Aid In Dying Program State Affiliate Representative Hawaii Society of Clinical Oncology



Submitted Online: February 23, 2023

HEARING: Friday, February 24, 2023

TO: House Committee on Judiciary & Hawaiian Affairs
Rep. David Tarnas, Chair
Rep. Gregg Takayama, Vice Chair

FROM: Eva Andrade, President

RE: Opposition to HB 650 HD1 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 because it undermines the safeguards that were put in place when the “Our Care, Our Choice” law went into effect.

We expressed our strong opposition when the Our Care Our Choice Act was passed in 2018 because of our concern about abuse of the law. The proposed amendment makes the vulnerable "have nots" of our community, who may not know how to navigate the healthcare system and have access to quality palliative and hospice care, victims of Our Care, Our Choice. Ironically, these are the very ones who do not have access to care nor do they have a choice.

When the bill was first introduced, legislators promised 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 abuseⁱ.” As we feared, the legislature has failed to keep that promise. We are disheartened to see that these safeguards are now being removed.

Pain management and palliative care should be the top priority of physicians and other healthcare professionals for each patient they deem may not make it through the “waiting period.” Rather than continue to erode the safeguards, as a state, we need to place a stronger emphasis on making palliative care and hospice services more accessible.

Mahalo for the opportunity to submit testimony in opposition.

ⁱ https://www.capitol.hawaii.gov/sessions/session2018/bills/HB2739_HD1_.HTM

Hawai'i Psychological Association

For a Healthy Hawai'i

P.O. Box 833
Honolulu, HI 96808

www.hawaiipsychology.org

Phone: (808) 521 -8995

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. David A. Tarnas, Chair

Rep. Gregg Takayama, Vice Chair

Friday, February 24, 2023 - 2:00pm via Videoconference; CR 329

Testimony in Support on HB650 HD1 RELATING TO HEALTH with comments

The Hawai'i Psychological Association (HPA) supports HB650 HD1; which, among other things, would give advanced practice registered nurses (APRNs) with psychiatric or clinical nurse specializations the authority to engage in certain medical aid in dying services in counseling, as well as reduce the waiting time for patients to be eligible for the program.

These services have been previously limited to physicians, psychiatrists, psychologists, and social workers. HPA takes the position that the counseling called for in this legislation is squarely within the scope of practice of APRNs with the requisite psychiatric training. **However, we would like the language to make clear that Clinical Nurse Specialists are also adequately trained in mental health.**

Moreover, **we also support giving authority to Marriage and Family Therapists to provide similar services under the definition of "counseling"** in Hawaii Revised Statutes Section 3217L-1 – as they have specialized training in the relational aspects of a dying patient's family and community.

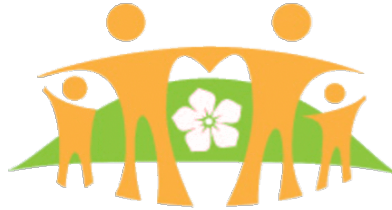
Finally, we believe this bill is extremely timely. There currently is a significant shortage of providers. This bill will increase the supply and access to services – particularly as demand increases with the aging baby boomer generation.

Thank you for the opportunity to provide input into this important bill.

Sincerely,



Raymond A Folen, Ph.D., ABPP.
Executive Director



The Hawaiian Islands Association
for Marriage and Family Therapy
(HIAMFT)

We know systems.
We know relationships.
We know FAMILY MATTERS.

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. David A. Tarnas, Chair

Rep. Gregg Takayama, Vice Chair

Friday, February 24, 2023 - 2:00pm via Videoconference; CR 325

The Hawaiian Islands Association for Marriage and Family Therapy (HIAMFT) strongly supports HB650 HD1, which would give advanced practice registered nurses the authority to engage in certain medical aid in dying services. These services have been previously limited to physicians, psychiatrists, psychologists, and social workers.

While HIAMFT strongly supports this bill, we believe **it can be strengthened to further achieve the purpose and intent of Our Care, Our Choice legislation by adding Marriage and Family Therapists (MFTs) to the corps of healthcare professionals allowed to provide “counseling” services** outlined in Hawaii Revised Statutes section 321L-1 to determine if a patient is capable, and has received adequate treatment for depression or other conditions that may impact his or her ability to make informed aid-in-dying decisions.

We believe that MFTs are uniquely qualified and should be authorized to provide “counseling” because of their expertise in mental health counseling and family systems. In this vein, we also ask that language be added to clarify that advanced practice nurses or those with a clinical nurse specialization – who would newly be allowed to provide “counseling” services, also have the requisite training in mental health.

Marriage and Family Therapists are one of five core mental health professions (along with psychiatrists, psychologists, social workers and advanced practice psychiatric nurses) identified by the Health Resources and Services Administration (HRSA) within the Department of Health and Human Services (HHS) of the US Government. Additional information can be obtained in *The Mental Health Workforce: A Primer* (April 20, 2018). They are trained to diagnose and treat mental health issues, such as but not limited to, anxiety, depression, substance abuse, alcoholism, relationship/marital problems, child-parent problems, ADD/ADHD, and schizophrenia.

Perhaps most germane to this measure, MFTs are specifically trained to attend to a patient’s primary relationship networks that may become resources for well-being. With a relational and systemic focus, MFTs use a perspective that considers the full context of a patient’s situation. This perspective is particularly important when working with critically serious issues like the intentional ending of one’s life.

Moreover, MFTs are specifically trained to understand and help patients discuss all aspects of family life and other interpersonal dynamics. In working with a dying patient, that person may be concerned about one or more family members, pets, or others within their personal family “system.” Therapy may represent a last opportunity for saying

good-bye or the possibility of healing and forgiveness for both the dying patient and various family and/or other community members.

Accordingly, we ask that Marriage and Family Therapists be added to the professionals authorized to provide "counseling" services on page 4, line 9-19 of this bill as follows:

"Counseling" means one or more consultations, which may be provided through telehealth, as necessary between a psychiatrist licensed under chapter 453, psychologist licensed under chapter 465, [~~or~~] clinical social worker licensed pursuant to chapter 467E, or advanced practice registered nurse or clinical nurse specialist licensed under chapter 457 with psychiatric or mental health training, or marriage and family therapist licensed pursuant to chapter 451J, and a patient for the purpose of determining that the patient is capable, and that the patient does not appear to be suffering from undertreatment or nontreatment of depression or other conditions [~~which~~] that may interfere with the patient's ability to make an informed decision pursuant to this chapter."

Thank you for the opportunity to provide strong support and suggested amendments for this important bill.

Sincerely,

A handwritten signature in cursive script that reads "John Souza, Jr., LMFT, DMFT".

Dr. John Souza, Jr., LMFT, DMFT, President
The Hawaiian Islands Association for Marriage and Family Therapy

Dear Chair Tarnas, Vice Chair Takayama and members of the Committee on Judiciary & Hawaiian Affairs,

Re: HB 650

I am a Nurse Practitioner and prior to my retirement, I assisted over 80 patients with the Medical Aid in Dying (MAiD) process from January 2019 – July 2022. As a MAiD Care Coordinator, I met with patients and families to review the process, schedule provider appointments, track the required timeframes outlined in the Our Care, Our Choice Act (OCOCA), collaborate with the hospice, offer emotional support and attend deaths as requested by the patient. I became a nurse to make a difference in people's lives, at the end of my career I realized I was also making a difference in people's deaths. Patients were so grateful to have this option, to have some control at the end of life. It was not uncommon after the patient had the medication, their depression/anxiety lessened and there was reassurance, if need be, they could end intolerable suffering.

The proposed amendments; to decrease the waiting period from 20 days to 5 days along with allowing the provider to waive this if it is likely the patient will not survive and allow APRNs to be a provider are crucial in order to provide this option to all Hawaii residents. This would allow equitable care for patients who are gravely ill and those who reside especially on the neighbor islands.

The current 20-day waiting period is a barrier for those that are interested in MAiD as some are so ill that they will not survive the waiting period. Once the patient was referred to me, I made every attempt to schedule the three provider appointments as soon as possible however the waiting period does not begin until all the providers deem the patient eligible. The mental health provider will still need to determine if the patient has the mental capacity to make this decision. Time is of the essence for these patients and the current law prevents them from an option they desperately seek. Based on my experience approximately 25% of patients died between January 2019 – July 2022 before they could complete the 20-day waiting period. This is unacceptable with no clear reason for such an extended waiting period. Patients and family members would ask why they had to wait so long for the prescription. All I could say was "it's the law" as I was unable to provide any further rationale. It was frustrating for the patient, the family and myself to see the patient denied access to MAiD based on such a prolonged waiting period.

Allowing qualified APRNs to be one of the providers is in alignment with the APRNs training, education and prescriptive authority. We are educated to perform assessments, diagnose and treat medical conditions, assess medical decision-making capability and prescribe medications. We have the judgement required to determine prognosis. Based on my interaction with patients and review of their medical record, I would share with the attending physician my prognostic opinion when I felt either death was imminent or the patient did not meet the 6 month or less prognostic criteria. The attending physician agreed with me each time. There is proposed national legislation, *The Improving Care and Access to Nurses Act* (H.R. 8812) that would allow APRNs to certify and recertify a patient's terminal illness for hospice eligibility. Considering the lack of providers on the neighbor islands it is a disservice especially to those residents not to utilize APRNs to expand access to MAiD. Patients should not feel abandoned, as one patient who lives on the island of Hawaii expressed to his physician when he was unable to find a provider to start the MAiD process.

As a healthcare provider and an advocate for dying patients, I ask you to amend the OCOCA to improve access for the patients with a short time to live and those who struggle to find providers to reduce superfluous hardship.

Mahalo,

Susan Amina, RNC, MSN, FNP

Jacqueline M. Mishler RN BSN BCPA
Post Office Box 892
Kula, Hawaii 96790
808 561 8673

Our Care, Our Choice Act Expansion HB 650 **Opposition**
House Committee Judiciary and Hawaiian Affairs
Hearing regarding HB 650 Friday 2/24/23 at Room 325

Honorable members of JHA and especially members new to legislature and the Our Care Our Choice Act -
David Tarnas, Sonny Ganaden, Troy Hashimoto, Greggor Ilagan, and Kanani Souza.

I am Jackie Mishler-a Board Certified Patient Advocate and retired RN from Maui.

I have been involved with this and related issues at the legislature for over 20 years; and invited to be part of the discussion by Senator Chun-Oakland during the creation of the Advanced Directive Legislation along with the Office on Aging.

Institutional memory (I was there) will tell you that more than half the people in Hawaii never wanted assisted suicide and euthanasia in Hawaii to begin with.

With passage of the OCOC Act Honorable Representative Della Au Belatti promised us that Hawaii would have the “**strongest Safeguards in the Nation**”.

If that **legislative promise** is to be kept, these bills being promoted should at the very least give us 10+ years before we start dropping off those **promised** strong safeguards. (The time agreed it takes to see the effects & issues of new legislation).

Please remember that less than two handfuls of States allow assisted suicide today and some legislatively deny it as the Supreme Court left this issue in States hands due to their concern about the potential for abuse.

There is no **proven** necessity for reducing safeguards at this time. Anecdotal stories abound about individuals-the unheard stories here are those of individuals hurt by the legislation who feel affronted by the medical profession, the society, and anyone suggesting they take their own life. And those who have felt coerced to do so.

Judiciary is about just laws. Even if we grant that PAS and euthanasia would ease suffering in individual cases, we must ask ourselves...

- What are the risks we run as a society by allowing this measure?
- Are there alternative ways to alleviate suffering which have lower risks?

Nurses cannot (for insurance purposes write a terminal diagnosis for a patient). Why should we suddenly allow them (who as a profession don't necessarily want it anyway) -to write lethal prescriptions?

Please seek a solution which will be as good for the patient but will be better than this plan to expand the killing for the society. Keep the promised Safeguards until compelling evidence shows us a need to change. It is too soon to see how the unintended consequences and the new victims emerge.

HB-650-HD-1

Submitted on: 2/22/2023 8:50:28 AM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ellen Godbey Carson	Individual	Support	Written Testimony Only

Comments:

This is such a good bill, and is so appropriate for those facing death who are living in pain and fear in their final days. I strongly support the shortening of the waiting period from 20 days to 5 days, and removal of the waiting period for those whose death is imminent, so that they will not face needless suffering. Each person facing terminal disease or death should have the right to control the manner of their death so as not to need to live their final days in pain and suffering.

HB-650-HD-1

Submitted on: 2/22/2023 10:19:40 AM

Testimony for JHA on 2/24/2023 2:00:00 PM

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

Comments:

Please pass this draft to improve access and timeliness of this measure. Please consider amending the enactment date "upon signature of the Governor" to allow the Senate to accept the bill upon crossover to avoid adding to the number of bills needing to go to conference this session.

I am writing in strong support of HB 650. The Hawaii Our Care Our Choices law prescribes a process that many ill persons and their care providers find daunting and burdensome. The unintended consequence is that many who wish to exercise their option to a death with dignity, as provided through the legislation, are unable to do so. It's time to update the law to meet the desire of those persons living with terminal illness for a death with dignity.

The data driven Department of Health 2019, 2020, and 2021 Reports to the Legislature on the implementation of the OCOCA document the challenges faced by consumers particularly the inability of residents in rural island communities to access this option.

I concur with the HB650 recommended changes to the OCOCA including 1) shortening the mandatory waiting period to 5 days; 2) waiver of any waiting periods if the attending provider and consulting provider agree that patient death is likely prior to the end of the waiting periods; and 3) authorizing advanced practice registered nurses (nurse practitioners) to serve as attending, consulting, and counseling providers for patients seeking medical aid in dying.

As the Dean Emerita of the Nancy Atmospera - Walch School of Nursing at UH, I assure you that participation in the act is within the scope of APRN practice and that APRNs have the required skills and compassion to assess the competency of patients and aid their dying process.

I strongly support this thoughtful and well considered bill that updates the OCOCA.

Mary G. Boland, DrPH, RN, FAAN
Dean Emerita Nancy Atmospera-Walch School of Nursing
University of Hawaii at Mānoa

HB-650-HD-1

Submitted on: 2/22/2023 11:15:48 AM

Testimony for JHA on 2/24/2023 2:00:00 PM

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

Comments:

Please support HB650, which will expand access to medical aid in dying. Thank you.

Jane E Arnold

1763 Iwi Way, Apt D

Honolulu HI 96816

HB-650-HD-1

Submitted on: 2/22/2023 11:19:02 AM

Testimony for JHA on 2/24/2023 2:00:00 PM

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

Comments:

My husband, Stephen T. Johnson, a retired firefighter, was one of the first users of MAID. He had advanced metastatic prostate cancer. When he was diagnosed in December 2018, Dr. Miller and Kaiser immediately stepped in to assist every step of the confusing process of the new law to gain approval to fill a MAID prescription. It was very cumbersome and time consuming, stressful and anxiety filled until he finally had the prescription filled after a flight to Oahu and taxi ride to Kailua to a compounding pharmacy. His anxiety was gone and he happily returned home late afternoon that day. The MAID prescription awaited his decision - which was made on May 5, 2019 at age 75. He lived his life exactly as he wanted to; and controlled his dying as he wanted to. This was a gift to him, me and our family. I hope the process will become less cumbersome, that those without means or in remote locations can work their way through with the help of navigators. If this is an option people chose, barriers should be removed to make it a smooth process. I am in support of any changes that ease the availability and completion of the MAID process. It should be up to the individuals and families; not up to politicians and those of opposing beliefs. Thank you for listening to me. Kathleen M. Johnson, Kailua-Kona

HB-650-HD-1

Submitted on: 2/22/2023 11:21:12 AM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Stephen L Tschudi	Individual	Support	Written Testimony Only

Comments:

Esteemed Members of the Committee on Judiciary and Hawaiian Affairs, Chair Tarnas, Vice Chair Takayama:

Thank you for devoting your efforts to improving the Our Care, Our Choice Act. While I am sure that none of us hopes to avail themselves of the provisions in this law, if the day comes when we need to, I am sure all of us will be glad it is there and that its provisions have been revised to reflect the actual needs and interests of patients at the end of life, as borne out by experiences of such patients since OCOCA first became law.

I need not reiterate the arguments of the experts. Let me simply stress again that:

- this law goes to the issue of individual bodily sovereignty;
- this law has strong safeguards against abuse;
- no one is forced to accept medical aid in dying for themselves; and
- the proposed changes are compassion-based measures that will improve access to medical aid in dying for patients desiring it.

Please implement these changes to reduce the suffering of patients at the end of life.

Mahalo

Stephen Tschudi

Palolo

HB-650-HD-1

Submitted on: 2/22/2023 11:30:12 AM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Selene Mersereau	Individual	Support	Written Testimony Only

Comments:

Thank you for supporting this bill.

Sincerely, Selene - Kailua

Mary M. Uyeda, retired APRN

To our JHA Committee, Feb. 22, 2023

I support HB650 for its removal of access and timing barriers to our terminal residents on the neighbor islands - especially the Big Island.

Currently, the Big Island has only 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. In addition, our local organization called Hawaii Citizens for End of Life Choices (HCELC) has reopened our Facebook website **online** with local contact resources **updated, annually**.

Let us join together statewide and improve our law by removing the access barrier on the outer islands by including APRNs, who will devote their efforts to the details of our terminal patients. 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 HB650

HB-650-HD-1

Submitted on: 2/22/2023 11:59:31 AM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marguerite Lambert	Individual	Support	Written Testimony Only

Comments:

I support improvements to the Our Care, Our Choice Act (HB 650).

HB-650-HD-1

Submitted on: 2/22/2023 12:20:14 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
william metzger	Individual	Support	Written Testimony Only

Comments:

PLEASE continue to support the important legislation (HB650) to improve access to the OUR CARE OUR CHOICE ACT.

Mahalo,

William Metzger

Melodee Metzger

HB-650-HD-1

Submitted on: 2/22/2023 12:56:26 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

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

Comments:

As a registered nurse with a specialty in oncology for over 45 years, I strongly support this bill. I have followed the DOH reports over the past three years and believe it is the right thing to decrease the waiting period and provide a waiver for those who will not make the waiting period. I knew patients that requested MAID, did not live through the waiting period and suffered needlessly. As a state, we can do better for the residents of Hawaii who request this option. I strongly support expanding provider status to APRNS. I am retired UH Nursing faculty and very familiar with the APRN role and their scope of practice. Adding them to the provider list will provide better access for these patients.

Thank you for your time and attention, please support passing this bill.

Very respectfully, Stephanie Marshall RN,MS, FAAN

HB-650-HD-1

Submitted on: 2/22/2023 1:10:42 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

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

Comments:

Aloha Representatives,

I am writing to express my strong support and to ask for your support for HB650. I am a clinical psychologist who has conducted more than 120 mental capacity evaluations for patients who have requested medical aid in dying under the Our Care, Our Choice Act. This bill will help Hawaii residents, particularly on the neighbor islands and in rural areas of Oahu, to more easily access medical aid in dying care. Allowing APRNs to participate will help to alleviate the chronic shortage of qualified medical providers in the state. Shortening the waiting period will help to minimize the number of patients who do not survive the current 20 day waiting period.

Mahalo for your attention to this important issue.

TESTIMONY IN STRONG SUPPORT OF HB650

Hawaii State House Committee on Judiciary & Hawaiian Affairs

Friday, February 24, 2023, 2p

Submitted by Lynn B. Wilson, PhD

February 22, 2023

To: Chair David Tarnas and Members of the State House Committee on Judiciary & Hawaiian Affairs

Re: Urging your strong support for removing barriers to access Hawaii's Our Care, Our Choice Act

Greetings:

I have appreciated previous votes to pass the original "Our Care, Our Choice Act" and, building on that, your support this year for HB650 aimed at removing barriers to access in the act is extremely important.

Data demonstrates safe use. Many prescriptions have been written in Hawaii since the law went into effect. Staying in line with nearly 40 years of combined national data, there has not been a single incident of coercion or abuse in Hawaii or in any other states that have authorized medical aid in dying.

My story. The proposed amendments are important to me personally. I was diagnosed in 2016 with an aggressive form of breast cancer. While my prognosis now looks good—it's been over six years since my diagnosis and treatment—I am convinced we all deserve to be able to access this law as an end of life option. We need to make sure these amendments are in place so that terminally ill patients will not suffer needlessly at their end of life because they are unable to receive the supportive care they need.

Support needed to increase access to the law:

1) Amend waiting period. Although the law is working, there remains a lack of doctors who are participating. Many who try to access the medical aid in dying option cannot find doctors to support them, and many do not survive the 20-day waiting period. This has led to exacerbating stress for the dying person at a time when comfort is needed most. It increases distress for families at the very moment when they need to stay grounded and share their loving. Both Kaiser Permanente and Hawaii Pacific Health have set up streamlined processes to assist their patients in accessing medical aid in dying, but nearly a quarter of their eligible patients did not survive the waiting period and died in exactly the way they did not want. Therefore, I appeal to you, our legislators, to amend the Our Care, Our Choice Act waiting period so it can be waived if the eligible patient will not survive the waiting period, just as they already do in Oregon.

2) Amend qualifications for prescriptive powers. The law can be especially difficult to access on our neighbor islands. That is why the Hawaii State Department of Health has recommended that qualified Advanced Practice Registered Nurses (APRNs) be able to fully support eligible patients in the option of medical aid in dying, including writing prescriptions for qualified patients. Moreover, it is extremely hard for terminally ill patients, if they are not part of Kaiser or Hawaii Pacific Health, to find doctors who are willing to write a prescription. APRNs already have prescriptive authority in our state, thanks to your leadership. And they should have the ability to serve as the attending physician, especially because of the doctor shortage across our state. With this amendment, APRNs will become qualified to serve as either the attending or consulting for the law.

These amendments to HB650, recommended by our Department of Health, just make sense—contributing to the well being of families across the state who have loved ones at the end of life.

It's time for Hawaii to approve the Hawaii State DOH improvements to the Our Care, Our Choice Act to increase access so that everyone who prefers this legal option has equal access to implement the choices they have for themselves at one of the most significant moments of their lives.

Aloha,
Lynn B. Wilson, PhD
Waipahu, Hawaii 96797

HB-650-HD-1

Submitted on: 2/22/2023 2:28:54 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nina Buchanan	Individual	Support	Written Testimony Only

Comments:

Thank you for accepting this testimony in support of HB650.

My name is Nina Buchanan, Ph.D. Emerita Professor from the University of Hawaii. From my personal experience suffering with my husband as he dies a slow death, I have come to realize how living on the Big Island handicaps anyone who would choose to use the Our Care, Our Choices Act as written.

In my experience, there were NO licensed, qualified physicians on the island who were willing to make a professional diagnosis and prognosis even though his primary care physician and oncologist had both diagnosed/concurred that my husband had only 4 to 6 months to live. The only way he could possibly qualified to get the assistance he needed would be to leave the island. But... COVID made travel impossible especially for someone as ill as my husband.

On September 11, 2021 Bob was admitted to Hawaii's Care Choices at home. The title is a misnomer, there was no choice. Their services, limited to pain and comfort management, were extraordinary but... in the end INHUMANE for both of us.

I am an animal lover and surely would have a cat or dog who was suffering put to 'sleep. It is an absolute horror to allow humans to suffer beyond what we would tolerate for a family pet.

I urge you to amend the law to make it possible for those of us in Hawaii to have some real choice and control over our death.

STRONG OPPOSITION to HB 650 for the following reasons:

From the September 24, 2020 article, “Vatican declares euthanasia and assisted suicide ‘intrinsically evil’”:

“The Vatican stressed in the new document that the renunciation of extraordinary care in no way can mean a request for assisted suicide or euthanasia which it called ‘a crime against human life’.

‘The judgment that an illness is incurable cannot mean that care has come at an end,’ it said. ‘Euthanasia, therefore, is an intrinsically evil act, in every situation or circumstance.’

It said those who participate in it, including medical personnel, are committing ‘homicide’ and that lawmakers who approve it ‘become accomplices of a grave sin’.”

From the 1980 Declaration on Euthanasia:

“No one is permitted to ask for this act of killing, either for himself or herself or for another person entrusted to his or her care; nor can he or she consent to it, either explicitly or implicitly. Nor can any authority legitimately recommend or permit such an action. For it is a question of **the violation of the divine law, an offense against the dignity of the human person, a crime against life, and an attack on humanity**....It is necessary to state firmly once more that nothing and no one can in any way permit the killing of an innocent human being, whether a fetus or an embryo, an infant or an adult, an old person, or one suffering from an incurable disease, or a person who is dying.”

From the joint pastoral letter “Human Life is Sacred,” the bishops of Ireland show that the Church recognizes that euthanasia is *intrinsically evil*, which means that no mitigating or extenuating circumstances can ever justify it:

“What must always be remembered is that certain actions are good or evil in themselves already, apart from the motive or intention for which they are done. Deliberately to take one’s own life is suicide and is gravely wrong in all circumstances. **To cooperate with another in taking his own life is to share in the guilt of suicide. Deliberately to terminate the innocent life of another is murder, no matter how merciful the motives, no matter how seemingly desirable the result.**”

HB-650-HD-1

Submitted on: 2/22/2023 3:42:50 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sandra Fujita	Individual	Support	Written Testimony Only

Comments:

I am in support of HB650 HD1.

HB-650-HD-1

Submitted on: 2/22/2023 3:48:53 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

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

Comments:

Testimony of Caryn Ireland, Independent Consultant, Compassion & Choices

Supportive Testimony Regarding HB 650

Please vote YES 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 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 and/or waive the waiting period when necessary.

Thank you for helping to improve the Our Care, Our Choice Act.

about 15 yrs ago i witnessed a close personal friend who suffered from ALS being admitted to a hospital against his wishes all he wanted is to die peacefully yet it took 6 weeks of torture (and a \$100k hospital bill) for him to die we are more 'humane' with our pets and animals than with family and friends do YOU want to let strangers dictate how to die ?

HB-650-HD-1

Submitted on: 2/22/2023 6:35:11 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joy Rodriguez	Individual	Support	Written Testimony Only

Comments:

I am writing in support of HB650, the Our Care, Our Choice Amendment. As a bed-side end of life doula, I have personally sat beside terminally ill Hawaiian residents who have utilized the OCOCA. I have witnessed the hardship created by the inability to access care and the helpless frustration created by a longer-than-necessary waiting period and I respectfully urge the passing of the amendment to allow for a 5-day waiting period, waiving the wait if medically necessary, and the use of APRNs as providers.

As a doula, I've held space for the frustration and exhaustion of very sick people. They know that they are dying of a terminal illness and that their quality of life, already intolerable, will only get worse. But they are so tired. This process of dying is so hard, both spiritually and physically. By allowing APRNs to be providers, you allow more suffering people to access the law. I have never met a person who ingested life ending medication who wanted to die, they simply no longer have the option of living. As one client said, "well, it's the best of all the bad options." APRNs would allow dying people the choice that would otherwise be denied to them due to limited provider availability.

The people who utilized the law have had conversations with their loved ones and have wrestled with their decision. The decision to ingest aid-in-dying medication is not made lightly. The 20-day waiting period implies a lack of confidence in the individual's capacity, and three medical professionals attest to that capacity. Does this law distrust those professionals along with the qualified individual? With great certainty, I believe that if the wait were 0 days or 100 days, the individual's decision would remain the same. The only difference is the outcome. By shortening the waiting period to 5 days, it allows greater access to the law. And, unfortunately, by the time a person is finally able to line up three providers, sometimes they don't have the 5 days to wait. In the case of medical necessity, I urge the waiving of the waiting period.

As an end of life doula, I co-facilitate a bereavement group for the loved ones of people who have utilized the Our Care, Our Choice Act in Hawai'i. I have heard from many of them a frustration over access. I have heard anger and disenfranchised grief. And for some, I have heard guilt. Guilt, because they had to fight so hard to get their loved one the death that was their right by law. Because of the difficulty in finding providers, one of the members of my group shared that they had to "be really pushy" and "really do work to track down the doctors." They spent days leaving messages and getting no response. It is very difficult to find the providers that both are willing to do the work and have the space in their schedule for the required visits and paperwork. And that leaves the bereaved feeling like they had an active role

in their loved one's death. A terminally ill person should be able to access life ending medication because the terminally ill person qualifies under the law, not because their spouse had the patience and fortitude to keep calling and emailing their providers. By allowing greater access to care, you are saving the bereaved from needless added suffering.

Thank you for taking the time to read our testimonies. I am confident that when you consider all of our voices, you will decide to support HB650

Respectfully,

Joy Rodriguez

HB-650-HD-1

Submitted on: 2/22/2023 7:50:31 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Malachy Grange	Individual	Support	Written Testimony Only

Comments:

Dear JHA Committee

Revisions to the Our Care Our Choice Act has been passed by several committees. You are one of the last hurdles. Please pass this bill for the sake of Hawaii's patients who are eligible and who wish to avail themselves of Medical Aid in Dying. This was the intent of the Our Care Our Choice Act signed by the Governor 4 years ago.

Unfortunately 30% of patients are unable to successfully complete the process because of a dearth of medical providers and a far too long waiting period. Allowing eligible Advance Practice Nurses to be part of the process and a shorter waiting period will address this unfortunate situation. Hawaii's patients and their families are counting on you.

HB-650-HD-1

Submitted on: 2/22/2023 7:55:07 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Georgia Bopp	Individual	Support	Written Testimony Only

Comments:

Hello all! I'm 100% in favor of this and ask you all to please support it. More verbal people than I have explained why these improvements make OCOC better.

Thank you for the peace of mind this gives to so many.

Aloha,

Georgia Bopp

HB-650-HD-1

Submitted on: 2/22/2023 10:12:00 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Alberta J Freidus-Flagg	Individual	Support	Written Testimony Only

Comments:

I support this bill.

HB-650-HD-1

Submitted on: 2/23/2023 9:29:32 AM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

Please let me start by saying how unnerved I am about making this effective almost 800 years in the future. None of us will be alive then. None of us are Methuselah. Stop playing with us and put in normal effective dates. This is one of the reasons the public has lost trust in the legislature and government in general. The year 3000 says you have no intention of passing a bill that should be passed henceforth and effective upon approval by the governor.

I wholeheartedly support this bill, sans defective effective dates. Assisted suicide, or whatever you call it, should be easily accessible to all, no roadblocks.

3347 Anoa'i Pl
Honolulu, HI 96822
23 February 2023

The Honorable David Tarnas, Chair
The Honorable Gregg Takayama, Vice Chair
House Committee on Judiciary and Hawaiian Affairs (JHA)
Hawaii.Capitol.Gov/account/submittestimony

Re: HB650, HD1, r/t Health, public hearing at 2:00 p.m., Fri. 24 Feb. 2023

Dear Chair Tarnas, Vice-Chair Takayama, and Members of the Committee,

I strongly support this bill amending Hawaii's Our Care Our Choice Act (OCOCA), HRS ch. 327L, on medical aid in dying (MAID) and urge you to pass it out of your committee.

It is important to help the Neighbor Island residents use the Our Care Our Choice Act by expanding the number of qualified professionals who can participate, given the shortage of health care professionals there. It is also important to reduce the overall time and procedures so a dying person can reduce their suffering. This bill would do those things.

I am in my 70s and support MAID because I want that option for myself, when I so choose. If suffering or some other condition becomes more than I care to bear, I do not want to be limited to starving myself to death while in great pain. I have read that pain relief fails in some cases, and I note that people have a constitutional right to refuse treatment when mentally competent. I believe that individual liberty and human dignity are also important values supported by this law.

While having some safeguards against abuse of MAID is reasonable, the Department of Health's (DOH's) 2019-2021 annual reports to the legislature, the latest I could find, do not reveal abuses of the elderly and frail. <https://health.hawaii.gov/opppd/ococ/>. In contrast, the DOH testified:

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, often with tremendous suffering. (DOH, 2-1-2022 on HB 1823)

The Hawaii Medical Association testified on HB650 HD1 on 15 Feb. 2023 that abuse has been reported and referred (fn.6) to a 2005 article by B. Steinbock, which actually says in part,

It is estimated that only one out of a hundred individuals who ask about assisted suicide [in Oregon] carry it out in the end. (p. 238)

Nor do fears about the abuse of vulnerable groups, such as the elderly, poor, uneducated, or minorities, seem to have materialized (p.238)

The cases of Kate Cheney and Michael Freeland [pointed to by Oregon MAID opponents as vulnerable and depressed] are not clear cases of abuse, and even if they were, two cases in seven years is hardly evidence of widespread abuse. Opponents of Oregon's law respond that there may well be other cases. (p.240)

That 2005 article says better research is needed. I would welcome the latest data, but the data to date do not warrant delaying the improvements contained in HB650, HD1.

In the end, the legislature must balance safeguards and availability, and it is fair to re-evaluate this as more information arrives. However, OCOCA, HRS ch. 327L will still retain many procedures and requirements if HB650, HD1 becomes law, and safeguards that are too numerous and difficult can in practice defeat the purpose of the law.

This bill is similar to HB1823, HD2, SD2 (2022), which made it to conference last year. Major differences are that HD650, HD1 authorizes advanced practice registered nurses to provide attending and counseling functions, while HB1823 (2022) also authorized physicians' assistants to perform these roles. HD650, HD1 shortens the time between oral requests from 20 to 5 days, while HB1823 (2022) shortened that time from 20 to 15 days. HD650, HD1, also requires a review to guard against coercion if the 5 day waiting period will be waived.

I thank those of you who supported HB1823 (2022) and ask for your continued support for improving MAID laws this year. I also ask those of you new to the issue to support HB650, HD1.

Thank you for hearing this bill and giving the public the opportunity to testify.

Respectfully submitted,
s/Laurence K. Lau

February 24, 2023

The Honorable David A. Tarnas, Chair
The Honorable Greg Takayama, Vice Chair
House Committee on Judiciary & Hawaiian Affairs
Hawaii State Capitol
415 South Beretania
Honolulu, HI 96813

Thank you for considering HB 650 HD1, 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 to improve the quality of life for many terminally ill patients who choose to access medical aid in dying.

HB 650 HD1 improves upon the existing legislation by:

- Expanding access to the Our Care Our Choice Act by expanding the definition of attending provider and consulting provider to include advanced practice registered nurses (APRN). This will help terminally ill individuals, particularly those who reside on neighbor islands and in rural areas, access to the law.
- Allowing counseling to a qualified patient by an APRN who specializes in a psychiatric or clinical nurse practice. Terminally ill people on the neighbor islands (and on Oahu as well) report their difficulties in locating psychiatrists and clinical social workers able to provide counseling.
- Waiving the mandatory waiting period if a patient is not expected to survive the wait.
- Reducing the barrier for individuals seeking medical aid in dying by shortening the 20-day waiting period called for in the statute to 5 days between oral requests. This will alleviate a terminally ill persons' stress considerably.

I sincerely hope this committee will recommend passage of HB 650 HD1 which will result in helping more people by providing peace of mind that if needed they will be able to access the law.

Mahalo,

Mary Steiner

HB-650-HD-1

Submitted on: 2/23/2023 11:11:44 AM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Leilani Maxera	Individual	Support	Written Testimony Only

Comments:

I urge you to support HB650. I am a Licensed Clinical Social Worker who supports Medical Aid in Dying patients by volunteering to do their capacity evaluations, one of the many steps in the MAiD process. I also run a free bereavement group for loved ones of those who have chosen MAiD. I have seen firsthand how detrimental the 20 day waiting period is to those who seek out MAiD and to the people who love them. We have one of the strictest waiting periods in the country and some people die before they reach the 20 day mark. There is no reason to prolong the process; patients deserve better. They deserve a real choice, and for those who are in extreme pain or are otherwise suffering, languishing in agony waiting for an arbitrary time period takes away their dignity. If we say that they have a choice, let's trust their judgment and give them a real choice instead of telling them 20 days they must wait regardless of where they are at in their dying process. I also believe that APRNs should be allowed to act as MAiD providers. Because of our shortage of medical providers in all categories in Hawai'i, patients already face many struggles to access the MAiD program. I see how people struggle to find providers who understand MAiD, and if there are APRNs who are willing to take up the work they should be allowed to do so. Please support HB650 and give real choices and dignity to terminally ill patients who utilize the Our Care, Our Choice Act.

HB-650-HD-1

Submitted on: 2/23/2023 1:18:51 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Diane Ware	Individual	Support	Written Testimony Only

Comments:

Dear Chair and Committee Members of JHA,

I am 75 years old and am a resident of Ka'u. I am testifying once again in strong support of changes to OCOC bill now in effect. I am experiencing long delays in accessing doctors and health care, currently to receive a colonoscopy after a positive Cologuard test. I received test results in late October and am not scheduled for the procedure until July.

Sincerely,

Diane Ware

HB-650-HD-1

Submitted on: 2/23/2023 1:25:16 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marcia Berkowitz	Individual	Oppose	Written Testimony Only

Comments:

I am shocked to learn of this bill. ARPN's are not trained nor licensed physicians. We appreciate them; they simply do not have the medical background to assess an individual for PAS. The P stands for Physician! This bill will amend manatory waiting periods to expedite PAS. Safeguards are under dire threat by this bill. Please consider safeguards may prevent a hasty rush to PAS and someone's inhumane demise.

Thank you,

Marcia Berkowitz/Maui

HB-650-HD-1

Submitted on: 2/23/2023 1:46:15 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Allen Novak	Individual	Support	Written Testimony Only

Comments:

Comments: I initially practiced nursing on Oahu, but for the past 30 years have practiced in Hilo. HB650 should pass as amended to allow Hawaii citizens more access and choice in the care they receive. Hawaii APRNs are qualified to provide these services.

Allen Novak

HB-650-HD-1

Submitted on: 2/23/2023 5:14:32 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Eve G Anderson	Individual	Support	Written Testimony Only

Comments:

Eve Anderson, here! testifying in favor of HB650 HD1. It is so important that terminally ill qualified patients must be allowed to end their suffering when they decide that the end is near; when the patient feels that their quality of life is near zero.; when the patient turns toward death with a sense of relief.

HB-650-HD-1

Submitted on: 2/24/2023 2:34:53 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

support