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# A BILL FOR AN ACT

RELATING TO AID IN DYING.

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

1           SECTION 1. This Act shall be known and may be cited as the  
2 Hawaii Patient Choice at End of Life Act of 2017.

3           SECTION 2. The legislature acknowledges that adult,  
4 terminally ill individuals have a fundamental right to determine  
5 their own medical treatment options as they near the end of  
6 life. Advances in technology are such that the process of dying  
7 can be extended even when no cure or likelihood of successful  
8 medical intervention exists. This can often result in  
9 terminally ill patients undergoing unremitting pain, discomfort,  
10 and an irreversible reduction in their quality of life in their  
11 final days. Currently in Hawaii, patients who are terminally ill  
12 and mentally capable have limited options to end their suffering  
13 if the dying process becomes unbearable. Palliative care, VSED  
14 (voluntarily stopping eating and drinking), or stopping  
15 artificial ventilation or other life-sustaining therapy to  
16 advance the dying process are all options a dying individual can  
17 choose. However, physicians do not always offer these options to

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1 their patients and more importantly, these options do not always  
2 result in a quick or peaceful death. For peace of mind, some  
3 individuals would, if it were explicitly authorized, choose  
4 medical aid in dying even if they ultimately might not ingest  
5 the medication.

6 "Medical aid in dying" describes a medical practice defined  
7 by established standards of care. It is well-recognized that  
8 medical aid in dying can ease the unnecessary suffering of  
9 individuals by providing a measure of control over the  
10 progression of a terminal illness and provide a safe,  
11 compassionate alternative to what terminally ill patients  
12 describe as unbearable pain, suffering and loss of autonomy in  
13 their final days. Medical aid in dying has been the law in  
14 Oregon for 20 years and since implementation, the quality of  
15 end-of-life care, pain management, and the use of hospice have  
16 all greatly improved. Data from Oregon also demonstrate that  
17 there have been no abuses of the law and, in contrast to the  
18 fears of opponents, the elderly, disabled and uninsured have not  
19 been negatively impacted by the use of aid in dying. The  
20 availability of medical aid in dying provides comfort to

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1 terminally ill individuals even when they ultimately choose not  
2 to self-administer the medication.

3 A growing body of scholarly research on medical aid-in-  
4 dying practice demonstrates the utility and safety of the  
5 practice of upholding an individual's right to self-  
6 determination and five states now authorize medical aid in  
7 dying, including Oregon, Washington, Montana, Vermont, and  
8 California. Over twenty states are currently considering  
9 legislation to authorize the practice. Therefore, it is the  
10 intent of the legislature to:

11 (1) Ensure that mentally capable, terminally ill adults in  
12 Hawaii who choose to do so are able to take advantage  
13 of medical aid in dying medication to facilitate a  
14 peaceful death; and

15 (2) Ensure that physicians who assist patients in  
16 obtaining aid in dying medication are not subject to  
17 civil or criminal liability for participating in good  
18 faith compliance with this act.

19 SECTION 3. The Hawaii Revised Statutes is amended by  
20 adding a new chapter to be appropriately designated and to read  
21 as follows:

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1 "CHAPTER

2 Hawaii Patient Choice at End of Life Act

3 § -1 Definitions. As used in this chapter, unless the  
4 context clearly requires otherwise:

5 "Adult" means an individual who is 18 years of age or  
6 older.

7 "Attending physician" means a person who:

8 (1) Is authorized to practice medicine under chapter 453  
9 or 460;

10 (2) Has primary responsibility for the patient's  
11 healthcare and treatment of their terminal illness;  
12 and

13 (3) Who routinely provides medical care to patients with  
14 advanced and terminal illnesses in the normal course  
15 of their medical practice. Such practice will not be  
16 solely limited to providing medical aid in dying.

17 "Capacity" means an individual's ability to understand the  
18 significant benefits, risks, and alternatives to proposed  
19 healthcare and to make and communicate an informed healthcare  
20 decision.

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1           "Healthcare provider" means an individual licensed,  
2 certified, or otherwise authorized or permitted by law to  
3 provide healthcare in the ordinary course of business or  
4 practice of a profession.

5           "Informed healthcare decision" means a decision by an  
6 individual to request a prescription for medical aid in dying  
7 based on an understanding and acknowledgement of the relevant  
8 facts and that is made after being fully informed by the  
9 individual's attending physician of:

- 10           (1) The individual's medical diagnosis;
- 11           (2) The individual's prognosis;
- 12           (3) The potential risks associated with taking the  
13           medication to be prescribed;
- 14           (4) The probable result of taking the medication to be  
15           prescribed;
- 16           (5) The possibility that they may not choose to obtain the  
17           medication, or may obtain the medication but may  
18           decide not to take it; and
- 19           (6) The feasible alternatives or additional treatment  
20           opportunities available to the individual, including  
21           hospice and palliative care.

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1 "Medical Aid in Dying" means the medical practice of an  
2 attending physician prescribing medication to a terminally ill  
3 adult with the capacity to make an informed healthcare decision  
4 to self-administer the medication to bring about a peaceful  
5 death if they so choose.

6 "Self-administration" means a qualified individual's  
7 affirmative, conscious, and physical act of administering the  
8 aid in dying drug to bring about his or her own death.

9 "Terminally ill" means the final stage of an incurable or  
10 irreversible medical condition that has been medically confirmed  
11 and will, within reasonable medical judgment, result in death  
12 within six months.

13 **§ -2 Medical Aid in Dying Specifically Authorized.** A  
14 terminally ill adult with the capacity to make an informed  
15 healthcare decision may request a prescription for medical aid  
16 in dying from their attending physician and may obtain  
17 medication that the individual may choose to self-administer to  
18 bring about a peaceful death.

19 **§ -3 Standard of Care.** (a) Medical aid in dying, as  
20 well as information related to medical aid in dying, shall be

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1 provided consistent with this statute and the current standard  
2 of care for medical aid in dying.

3 (b) No healthcare provider may intentionally mislead an  
4 individual, with an affirmative statement or by omission,  
5 regarding the existence of medical aid in dying as a lawful  
6 medical practice in this state.

7 (c) No healthcare provider shall punish, retaliate or  
8 otherwise discipline another healthcare provider for refusing to  
9 violate subsection (b).

10 **§ -4 Effects on Related Statutes.** (a) Nothing in this  
11 chapter shall be construed to authorize a healthcare provider to  
12 end an individual's life by euthanasia.

13 (b) This chapter does not limit or otherwise affect the  
14 provision, administration, or receipt of palliative sedation  
15 consistent with the current medical standard of care.

16 (c) Medical aid in dying that occurs in accordance with  
17 this chapter shall not be construed for any purpose to  
18 constitute suicide, assisted suicide, or homicide under the law.

19 (d) An individual's good faith use of medication prescribed  
20 by medical aid in dying shall not, by itself, trigger a  
21 coroner's or deputy coroner's duty to perform an inquest.

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1 Subsection (c) shall not be construed to conflict with section  
2 841-3.

3 (e) The cause of death listed on death certificates of  
4 individuals who avail themselves of medical aid in dying shall  
5 be the individual's underlying terminal illness.

6 (f) Seeking or using medical aid in dying shall not affect  
7 in any manner any contract, will, life insurance, health  
8 insurance, accident insurance, annuity or other agreement.

9 (g) A request by an individual for, or provision by an  
10 attending physician of, aid in dying medication in good faith  
11 compliance with the provisions of this act does not constitute  
12 neglect or elder abuse for any purpose of law, or provide the  
13 basis for the appointment of a guardian or conservator.

14 (h) An individual who possesses or self-administers aid in  
15 dying medication consistent with this chapter shall not, solely  
16 for such reasons, be considered a danger to self under section  
17 334-1 or a person suffering from serious physical harm under  
18 section 663-1.6.

19 (i) Healthcare providers and individuals are not subject to  
20 civil or criminal liability for participating in good faith  
21 compliance with this act, including an individual who is present



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1 when an individual self-administers the prescribed aid in dying  
2 medication.

3 (j) A healthcare provider or professional organization  
4 shall not subject an individual to censure, discipline,  
5 suspension, loss of license, loss of privileges, loss of  
6 membership or other penalty for participating in good faith  
7 compliance with this act, or for declining to participate.

8 (k) If a healthcare provider is unable or unwilling to  
9 comply with a qualified individual's request for medical aid in  
10 dying under this act they must cooperate in the transfer of the  
11 individual's care to a participating provider so that the  
12 individual's request can be evaluated in a neutral and unbiased  
13 manner. If the individual transfers care to a new healthcare  
14 provider, the prior healthcare provider shall immediately  
15 transfer a copy of the individual's relevant medical records to  
16 the new healthcare provider.

17 (l) Purposely or knowingly coercing or exerting undue  
18 influence on an individual to request medication for the purpose  
19 of ending their life or to conceal a rescission of a request is  
20 punishable as a class felony."

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1           SECTION 4. If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the Act that can be given effect without the  
5 invalid provision or application, and to this end the provisions  
6 of this Act are severable.

7           SECTION 5. This Act shall take effect upon its approval.

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9

INTRODUCED BY: \_\_\_\_\_

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**Report Title:**

Death with Dignity; Aid in Dying; Patient Choice; Physicians

**Description:**

Allows a terminally ill adult with the capacity to make an informed healthcare decision to request a prescription for aid in dying medication from their attending physician to facilitate a peaceful death. Ensures that physicians who assist patients in obtaining aid in dying medication are not subject to civil or criminal liability.

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