

FACTSHEET 39: Hawaii Our Care Our Choice Act

Signed by the Governor of Hawaii on April 5, 2018, the Hawaii **Our Care Our Choice Act** came into effect on January 1, 2019, with a minor amendment on January 18, 2019. Hawaii was the seventh State (or District) in the USA to legalise Voluntary Assisted Dying. The Hawaii law is similar to the Oregon legislation which allows individuals with a terminal illness to request aid in dying medication for self-administration. Differently from other states, Hawaii is the only state to require a third health care provider to conduct a mental capacity evaluation. As of July 1, 2019, eight people had qualified for the medication and two people had used it.

To be eligible to request medication, the individual must

- be a resident of Hawaii aged 18 years or older
- be able to communicate an informed decision to health care providers
- have a prognosis of six months or less to live due to a terminal illness; the diagnosis having been confirmed by two physicians, including the patient's primary physician and a second, consulting physician
- be determined by the two physicians to have medical decision-making capacity
- have established that the request is voluntary
- be referred by the attending physician to a psychiatrist, psychologist, or clinical social worker to determine that the patient does not have untreated or under treated depression that could impair his or her decision-making capacity.

Other provisions

- To obtain the prescription for the medication requires two oral requests at least 20 days apart; and 1 signed written request witnessed by 2 people, one of whom is has no vested interest in the patient.
- At least 48 hours must lapse between the written request for medication and the writing of the prescription.
- A prescription for the medication shall be filled within seven days of the issuing of the prescription to the patient.
- The patient can rescind the decision any time.
- The full complement of choices of treatment at the end of life must have been presented to the patient, on a continuum from aggressive medical intervention to palliative care, to assisted dying. Health professionals must present choices in a values-neutral manner. Any choice must be fully informed.
- No health provider is compelled to participate, but if a patient transfers their care to another provider, the original provider, on request of the patient, will transfer a copy of the patient's relevant records to the new health provider.
- A health care facility is allowed to prohibit a health provider from participating in this action if the health facility has notified the provider of its policy.

The full text may be accessed at <https://health.hawaii.gov/opppd/files/2018/11/OCOC-Act2.pdf>;
<https://www.deathwithdignity.org/wp-content/uploads/2015/10/2019-HI-SB-536.pdf>