



**HAWAII MEDICAL ASSOCIATION**

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**HSE JUD COMMITTEE  
Thursday  
3/4/044  
9:00 am  
Capitol Auditorium**

March 3, 2004

To: Senate Judiciary Committee  
Rep. Eric G. Hamakawa, Chair  
Rep. Blake Oshiro, Vice Chair

From: Leonard R. Howard MD, Past President  
Sherrel Hammar, M.D., President  
Paula Arcena Executive Director  
Dick Botti, Government Liaison

Re: HB862 Relating to Death With Dignity

The HMA appreciates the opportunity to testify in strong opposition to HB862 Relating to Death with Dignity.

HMA's Position

Consistent with the policies of the American Medical Association (AMA), the HMA strongly opposes any bill to legalize physician assisted suicide or death. Physician-assisted suicide is fundamentally inconsistent with the physician's role as a healer. The AMA policy on physician assisted suicide is as follows:

- (1) Physician assisted suicide is fundamentally inconsistent with the physician's professional role.
- (2) It is critical that the medical profession redouble its efforts to ensure that dying patients are provided optimal treatment for their pain and other discomfort. The use of more aggressive comfort care measures, including greater reliance on hospice care, can alleviate the physical and emotional suffering that dying patients experience. Evaluation and treatment by a health professional with expertise in the psychiatric aspects of terminal illness can often alleviate the suffering that leads a patient to desire assisted suicide.
- (3) Physicians must resist the natural tendency to withdraw physically and emotionally from their terminally ill patients. When the treatment goals for a patient in the end stages of a terminal illness shift from curative efforts to comfort care, the level of physician involvement in the patient's care should in no way decrease.

- (4) Requests for physician assisted suicide should be a signal to the physician that the patient's needs are unmet and further evaluation to identify the elements contributing to the patient's suffering is necessary. Multidisciplinary intervention, including specialty consultation, pastoral care, family counseling and other modalities, should be sought as clinically indicated.
- (5) Further efforts to educate physicians about advanced pain management techniques, both at the undergraduate and graduate levels, are necessary to overcome any shortcomings in this area. Physicians should recognize that courts and regulatory bodies readily distinguish between use of narcotic drugs to relieve pain in dying patients and use in other situations.

The AMA and HMA firmly believe that the lower court was wrong in taking the unprecedented step of announcing a right to control the timing and manner of one's death through the use of physician assisted suicide. The power to assist in intentionally taking the life of a patient is counter to the physician's central mission of healing. It is a power that physicians do not want and could not control if they had it.

The HMA continues to support the concept that physicians preserve life as long as possible, while at the same time prevent suffering. If by giving a dose of MS adequate to relieve pain I cause respiratory failure, then so be it. The patient's disease has been the essential reason for the death, not my action. On the other hand, if I inject a lethal dose of KCl or knowingly prescribe a lethal dose of barbiturate for a patient, then I am the primary cause of the death of the patient. It is the *intention* for our actions that determines their ethical nature. If the state wishes to provide a methodology so that people can voluntarily end their own life for whatever reason, do so, but leave medicine out of it.

In *Decisions Near the End of Life* it is proposed that instead of participating in assisted suicide, physicians must aggressively respond to the needs of patients at the end of life. Patients cannot not be abandoned once it is determined that cure is impossible. Multidisciplinary interventions should be sought including specialty consultation, hospice care, pastoral support, family counseling and other modalities. Patients near the end of life must continue to receive emotional support, comfort care, adequate pain control, respect for patient autonomy, and good communication.

#### Need for physician education

Due to multiple community efforts, significant progress is being made in educating physicians, other health care professionals and health care institutions about pain management, palliative care and end-of-life care, which provide meaningful alternatives to physician assisted suicide. These efforts include:

- University of Hawaii, John A. Burns School of Medicine plans to make pain management a standard part of its curriculum for medical students;

- Year-round continuing medical education (CME) courses for physicians provided by HMA's 20 accredited CME providers in Hawaii and the Pacific Rim, driven in part by Joint Commission on Accreditation of Healthcare Organizations (JCAHO) hospital accreditation requirements effective in 2001 to implement standards for pain management;
- Kokua Mau's effort to adopt a model to promote change agents within committed institutions on all islands involving teams of health care professionals;
- HMSA ICMS proposed two-year pilot project on palliative care coordination to the Office of Personnel Management for the Federal Employees Health Benefits Program (FEHBP) Federal Plan 87;
- Kaiser Permanente Hawaii Region's two-year demonstration project in palliative care; and
- HMA sponsored conferences for physicians and other health care providers.

### Need for Patient Education

In order for patients to make educated decisions, they need to know what is available to them as patients. Often times, there is confusion about the distinction between physician-assisted suicide and available care such as pain management and palliative care, as well as the patient's choice to withhold or withdraw treatment. There is a critical difference, both ethically and in practice, between a patient's right to refuse unwanted medical treatment and active medical intervention, which brings about death.

The best way for patients to insure that their care of choice is to outline their end of life wishes with an Advanced Directive. The Hawaii State Legislature made this available to Hawaii's patients by approving the Uniform Health Care Decision Act. As a result, Hawaii has one of the highest percentages of persons over 65 who have completed an advanced directive. Physicians and other health care workers are bound by law to honor this document and the patient's wishes.

As with so many other problems, education is the answer. Both education of our physicians and nurses who deal with dying patients, and education of our patients so that all present legal avenues are utilized to control their own dying process as much as is possible without crossing ethical and moral boundaries. The HMA encourages all physicians to become more competent in end-of-life care so they will be prepared when their favorite patient enters the dying process. After all is said, just remember that we are going to die under the same circumstances that we create for our patients today.

Claim that physician support for physician assisted suicide is growing

A recent Letter to the Editor by a physician who supports physician assisted suicide and physician assisted dying, suggested that support for it amongst Hawaii physicians is growing, which is an incorrect statement. The statement is based on a survey sent to 2,079 physicians of which 224 responded. Of those who responded, a slight majority were in favor of physician assisted suicide and physician assisted dying. I suppose the correct statement would be, if there are now 150 physicians in support, when there were only 115 in support four years ago. This cannot be represented as significant growth in support.

Support certainly isn't growing on a national level; four states outside of Oregon have voted on PAS and turned it down. Forty-six states have criminalized PAS. It is not growing in popularity. The people are solidly opposed to it.

The Hawaii Medical Association continues to support the AMA policy opposing both physician assisted suicide and physician assisted dying. As stated earlier in our testimony, we strongly support the various efforts to improve pain management, palliative care and end-of-life care that will eliminate the horror stories of terminal suffering that we have all heard.